
STATUTORY INSTRUMENTS

2015 No. 96

The National Health Service Pension Scheme,
Injury Benefits and Additional Voluntary
Contributions (Amendment) Regulations 2015

PART 4

Amendment of the National Health Service (Injury Benefits) Regulations 1995

General

47. The National Health Service (Injury Benefits) Regulations 1995(1) are amended in accordance with regulations 48 to 52.

Amendment of regulation 2

48.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

(a) after the definition of “the 2008 Regulations” insert—

““the 2015 Regulations” means the National Health Service Pension Scheme Regulations 2015;”(2);

(b) omit the definition of “average remuneration”;

(c) for the definition of “NHS employment”, substitute—

““NHS employment” has the same meaning as in the 1995 Regulations, the 2008 Regulations and the 2015 Regulations as the case may be;”;

(d) in the definition of “the Scheme”(3), for “and the 2008 Regulations” substitute “, the 2008 Regulations and the 2015 Regulations”.

Amendment of regulation 2A

49. After paragraph (2) of regulation 2A (meaning of “practitioner”)(4), add—

“(3) In these Regulations, in relation to a person who is eligible to be a member of the Scheme set out in the 2015 Regulations, “practitioner” means those persons referred to in Parts 2 and 3 (medical contractors, dental contractors and independent providers and medical practitioners and dental practitioners) of Schedule 5 (membership gateways) to the 2015 Regulations except—

(a) a locum practitioner;

(1) [S.I. 1995/866](#).

(2) [S.I. 2015/94](#).

(3) The definition of “the Scheme” was last substituted by regulation 3 of [S.I. 2008/655](#).

(4) regulation 2A was inserted by regulation 3 of [S.I. 2008/655](#).

- (b) a non-GP provider;
- (c) an independent provider.”.

New regulation 2C

50. After regulation 2B (civil partnerships and marriage of same sex couples), insert—

“Meaning of “average remuneration”

2C.—(1) In these Regulations, “average remuneration” means—

- (a) in relation to a practitioner to whom the 1995 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner’s uprated earnings in accordance with paragraph 11(2) of Schedule 2 to those Regulations;
- (b) in relation to a practitioner to whom the 2008 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner’s uprated earnings in accordance with regulation 3.D.1(4)(b) of those Regulations;
- (c) in relation to a practitioner to whom the 2015 Regulations apply, such amount as would be, or would have been, that person’s yearly average earnings;
- (d) in relation to a person other than a practitioner to whom the 1995 Regulations apply, such amount as would be or would have been that person’s final year’s pensionable pay under regulation C1(6) of those Regulations, (assuming, in the case of a person to whom regulation 3(1)(c) applies, that the person was in receipt of the pensionable pay which would, in the opinion of the Secretary of State, have been payable if the person were employed whole-time by an employing authority on similar duties);
- (e) in relation to a person other than a practitioner to whom the 2008 Regulations apply, such amount as would be or would have been that person’s reckonable pay under regulation 2.A.10 of those Regulations;
- (f) in relation to a person other than a practitioner to whom the 2015 Regulations apply, such amount as would be, or would have been, that person’s yearly average earnings.

(2) The yearly average, final year’s pensionable pay and reckonable pay referred to in paragraph (1) are to be calculated as if the person to whom regulation 3(1) applies had retired—

- (a) in the case of a person eligible for an allowance under regulation 4(3A) or (3D), on the date on which that person ceased to be employed as a person to whom regulation 3(1) applies;
- (b) in the case of a person eligible for an allowance under regulation 4(4), (4B), (5) or (5C), on the date on which that person’s emoluments were reduced;
- (c) in the case of any other person, on the date on which by reason of the injury or disease that person’s employment ceased.

This is subject to paragraphs (3) and (4).

(3) This paragraph applies to a person to whom regulation 3(1)(a) applies who was employed as a senior registrar, registrar, specialist registrar, senior house officer or house officer immediately before—

- (a) ceasing to be employed by reason of the injury or disease or as a person to whom that regulation applies; or

(b) the date on which that person's emoluments were reduced.

(4) In the case of a person to whom paragraph (3) applies, average remuneration shall be increased to the amount which in the opinion of the Secretary of State represents the average remuneration of a general medical practitioner or, as the case may be, a general dental practitioner.

(5) In the case of a person to whom the 2015 Regulations apply and who is a practitioner, that person's yearly average earnings are the greater of—

- (a) the optimum re-valued pensionable earnings in that person's NHS employment; and
- (b) the annual rate of pay for that employment at the time it ceased.

(6) In the case of a person to whom the 2015 Regulations apply and who is a practitioner, that person's yearly average earnings are the average of the annual amounts that would be, or would have been, the person's re-valued pensionable earnings in respect of practitioner service or service which is treated as practitioner service.

(7) The optimum re-valued pensionable earnings is the re-valued pensionable earnings for the scheme year in the earnings reference period for which the person has the greatest amount of re-valued pensionable earnings.

(8) The annual rate of pay is the sum of—

- (a) the annual rate of so much of what was or would have been the person's pensionable earnings immediately before any pension became or would have become payable as consisted of salary, wages, or other regular payments of a fixed nature, and
- (b) so much of any fees and other regular payments not of a fixed nature as—
 - (i) was payable to the person during the period of 12 months ending with the day the employment ceased, and
 - (ii) formed, or would have formed, part of the person's pensionable earnings."

Amendment of regulation 4

51.—(1) Regulation 4 (scale of benefits) is amended as follows.

(2) In sub-paragraph (a) of paragraph (6)—

(a) for paragraph (i), substitute—

“(i) reduction in the amount of that pension under regulation T5 or T6 of the 1995 Regulations, regulation 2.J.6, 2.J.7, 3.J.6 or 3.J.7 of the 2008 Regulations or paragraphs 11 or 12 of Schedule 3 to the 2015 Regulations (all of which deal with offset and loss of rights to benefits);”;

(b) for paragraph (ii), substitute—

“(ii) reduction in the amount of that pension under regulation E2A(7), E7 or L1(5) of the 1995 Regulations, regulation 2.D.14, 2.D.15, 3.D.10 or 3.D.11 of the 2008 Regulations or regulation 77 or 109 of the 2015 Regulations (all of which deal with exchanging a pension for a lump sum including in cases of serious ill health);”;

(c) for paragraph (iv), substitute—

“(iv) reduction in the amount of that pension under paragraph (14)(b) of regulation T2A of the 1995 Regulations, paragraph (10)(b) of regulations 2.J.8 or 3.J.8 of the 2008 Regulations or paragraph 16 of Schedule 3 to the 2015 Regulations (all of which deal with the deduction of tax);”.

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(3) After sub-paragraph (b) of paragraph (10)(5), add—

“(c) in respect of a person who is or is eligible to be a member of the scheme set out in the 2015 Regulations,—

(i) the person’s state pension age, or

(ii) 65, if that is higher.”.

Amendment of regulation 8

52. In paragraph (6)(6) of regulation 8 (child’s allowance), for “or the 2008 Regulations” substitute “, the 2008 Regulations or the 2015 Regulations”.

(5) Sub-paragraph (c) was inserted by regulation 3 of S.I. 2008/655.

(6) Paragraph (6) was substituted by regulation 3 of S.I. 2008/655.