
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service Pension Scheme Regulations 1995 (S.I. 1995/300) (“the 1995 Regulations”), the National Health Service Pension Scheme Regulations 2008 (S.I. 2008/653) (“the 2008 Regulations”), the National Health Service Pension Scheme Regulations 2015 (S.I. 2015/94) (“the 2015 Regulations”), the National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015 (S.I. 2015/95) (“the Transitional and Consequential Regulations”), the National Health Service (Injury Benefits) Regulations 1995 (S.I. 1995/866) (“the IB Regulations”) and the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I. 2000/619) (“the AVC Regulations”).

Part 1 of these Regulations deals with introductory matters. Regulation 1 provides for citation, commencement and effect, including that certain provisions of this instrument are to take effect from a date before the date of commencement. Section 12(1) of the Superannuation Act 1972 (c. 11) and section 3 of the Public Service Pensions Act 2013 (c. 25) provide authority for the regulations specified in regulation 1(4) to (8) to take effect as from a date earlier than the making of these Regulations.

Parts 2 to 4 make similar amendments in respect of the instruments dealing with the National Health Service Pension Scheme – namely, the 1995 Regulations, the 2008 Regulations and the 2015 Regulations. They also introduce amendments specific to each of those instruments.

The changes dealing with similar issues in Part 2 (covering the 1995 Regulations), Part 3 (covering the 2008 Regulations) and Part 4 (covering the 2015 Regulations) cover—

General Medical Practitioners, by extending the definition of pensionable earnings to allow income or earnings from an NHS standard sub-contract to be pensioned where the holder of the principal NHS Standard contract is an employing authority for the purposes of the 1995, 2008 or 2015 Regulations (regulations 18(2) to (4), 41(2), 43, 87(5), 89(a))

Consequential amendments are also made (i) defining an NHS standard sub-contract (regulations 3(d), 21(e), 39(e), 79, 87(2) and (3), 89(c)) and (ii) requiring Independent Providers to include details of NHS standard sub-contracts in the annual return they are required to make (regulations 19(3), 38, 83)

practice staff by amending the definition of practice staff to enable such staff to pension earnings derived from NHS standard contracts and NHS standard sub-contracts (regulations 3(c), 21(c), 39(c), 89(b))

Independent Providers by enabling the grant of employing authority status to take effect (subject to certain pre-conditions) from a retrospective date (regulations 19(2), 37, 81(3))

the abolition of contracting-out, by making consequential amendments to the 1995 Regulations, the 2008 Regulations and the 2015 Regulations dealing with increases to a guaranteed minimum pension and enabling the forfeiture of a spouse’s or surviving civil partner’s guaranteed minimum pension where the beneficiary is convicted of the murder or manslaughter of the scheme member (regulations 7, 8, 9, 12, 15, 28, 30, 36, 48, 50, 56, 68, 69, 70(3), 84(3))

conversion of pension into a lump sum where the sums involved are trivial (regulations 16, 34, 54, 84(2))

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the replacement of paternity leave and paternity pay with shared parental leave and shared parental pay by amending references to paternity leave accordingly (regulations 3(d), 11, 18(3)(b), 18(5), 21(e), 22, 23, 26, 29, 39(e), 40, 41(3) and (4), 42, 46, 49, 57, 59, 60, 65, 87(4), 88, 89(c))

the ban on the transfer of deferred benefits from unfunded public service pension schemes to schemes offering flexible benefits by closing an existing lacuna in the provisions of the 1995 Regulations, 2008 Regulations and 2015 Regulations (regulations 32, 52, 77)

miscellaneous technical amendments (i) updating references to the Pension Schemes Act 1993 (regulations 3(b), 10(3), 21(b), 27, 31, 39(b), 47, 51, 62, 63, 74, 75, 76) (ii) removing obsolete references to “safeguarded rights” and “safeguarded percentage” (regulations 3(e), 21(d), 35, 39(d), 55) (iii) updating the definition of a buy-out policy (regulations 3(a), 21(a), 39(a), 78) (iv) inserting a cross reference to the Public Service Pensions Act (Northern Ireland) 2014 in relation to the provisions of the 1995 Regulations, 2008 Regulations and 2015 Regulations dealing with transfers and the final salary link (regulations 14, 33, 53).

Amendments specific to the 1995 Regulations—

make amendments to the provisions concerning eligibility for membership to enable certain members who are compulsorily transferred into the NHS after 1 April 2015 to join the NHS Pension Scheme (regulation 5)

make amendments to regulation M2 (transfers) to make clear that any buy-out policy purchased must satisfy the requirements of regulation 12(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (regulation 10(2))

make amendments to the provisions governing transfers of pensions to prevent a deferred member transferring benefits to a Qualified Recognised Overseas Pension Scheme in certain cases (regulation 10(3))

make minor technical amendments correcting or inserting cross-references (regulation 4, 6, 13, 17).

Amendments specific to the 2008 Regulations—

make amendments to the provisions concerning eligibility for membership to enable certain members who are compulsorily transferred into the NHS after 1 April 2015 to join the NHS Pension Scheme (regulations 24, 44)

amend the provisions relating to repayment of a lump sum contribution (regulation 64)

amend the provisions relating to pensions for a surviving spouse or surviving civil partner (regulation 70)

amend the provisions relating to the amount of child pension so as to exclude from its calculation any tier 2 ill-health pension (regulation 72)

amend the provisions relating to opting-out and re-joining the scheme so as to enable a person with two employments to opt out of one but continue as an active member of the scheme in respect of the other (regulation 85)

make minor technical amendments correcting or inserting cross-references and omitting obsolete provisions (regulation 25, 45, 73).

Amendments specific to the 2015 Regulations make minor technical amendments correcting or inserting cross-references (regulation 61, 67, 80, 81(2), 82, 86).

Part 5 makes amendments to the Transitional and Consequential Regulations by—

inserting a new regulation 10A to deal with the effect of recommencing pensionable service following a break in employment and its effect on the calculation of, where appropriate, an ill-health pension or a death in service benefit (regulation 92)

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amending incorrect references to the “new scheme” to read the “2015 scheme” (regulation 91, 93, 96(2))

correcting an erroneous cross reference in respect of ill-health benefits (regulation 94)

making a technical amendment to the lifetime allowance condition in regulation 31 so that it mirrors the provisions of the 2008 and 2015 Regulations (regulation 95)

amending the table in regulation 40 to ensure that the correct proportion of a child’s pension is payable in the event of the death of a transitional member within 12 months of deferment of his pension (regulation 96(3)).

Part 6 makes amendments to the IB Regulations to ensure that a person in receipt of permanent injury benefit under the IB Regulations who was in receipt of certain social security benefits which were replaced by the social security benefit known as “employment support allowance”, is not detrimentally affected by that replacement where the amount of employment and support allowance is greater than the amount of replaced social security benefits he was receiving (regulation 99). A minor technical amendment is made to the meaning of average remuneration to properly reflect the policy intention (regulation 98).

Part 7 makes amendments to the AVC Regulations to enable a member’s money purchase additional voluntary contribution pension pot to be taken as a lifetime allowance excess lump sum (regulation 102). A consequential amendment is made by regulation 103. Minor technical amendments are also made by regulations 101 and 104.

Part 8 provides that deferred members, or members in receipt of a relevant benefit, who are detrimentally affected by these Regulations may elect for the provisions not to apply to them by giving notice within six months of the coming into force of these Regulations (regulation 105).