
STATUTORY INSTRUMENTS

2016 No. 245

The National Health Service Pension Scheme,
Injury Benefits and Additional Voluntary
Contributions (Amendment) Regulations 2016

Part 5

Amendment of the National Health Service Pension Scheme
(Transitional and Consequential Provisions) Regulations 2015

General

90. The National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations⁽¹⁾ are amended as follows.

Amendment of regulation 5

91. In regulation 5 (nominations, notices and declarations)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (b), for “2015 Scheme” substitute “new scheme”;
 - (ii) in the heading to column 2 of the table, for “2015 Scheme” substitute “new scheme”;
- (b) in paragraph (2), for “2015 Scheme” substitute “new scheme”.

New regulation 10A

92. After regulation 10 (disqualifying breaks in service), insert—

“Effect of recommencing service after break

10A.—(1) Paragraph (2) applies where—

- (a) on the date a person becomes eligible to join the new scheme that person is absent from work because of illness or injury and that person’s earnings have ceased either—
 - (i) in the circumstances described in regulation P1 of the 1995 Regulations, or
 - (ii) in the circumstances described in regulations 2.A.9(7), or 3.A.8(4) of the 2008 Regulations, and
- (b) on the date the person’s employment is terminated or the person dies (“the relevant date”)—
 - (i) that person’s earnings have not recommenced, and

- (ii) for the purposes of the new scheme, that person's pensionable earnings are zero.
- (2) Where paragraph (1) is satisfied, if the earnings of a person referred to in that paragraph had recommenced at the relevant date the scheme manager may determine that the person would have become entitled to either—
 - (a) the benefit set out at paragraph (4)(b) of regulation 28 (ill health benefits: members below normal pension age) where that person's employment is terminated, or
 - (b) one or more of the benefits set out at regulation 40 (death in service) where that person dies.
- (3) Where the scheme manager does so determine, for the purposes of calculating the benefits referred to in paragraph (2)—
 - (a) the person is treated as if they were in pensionable service on their last day of NHS employment, and
 - (b) contributions in respect of that day are deemed to have been paid.”.

Amendment of regulation 13

93. In sub-paragraphs (a)(ii) and (b)(ii) of paragraph (1) of regulation 13 (taper protection for contribution tiering), for “2015 Scheme” substitute “new scheme”.

Amendment of regulation 27

94. In sub-paragraph (a)(i)(bb) of paragraph (1) of regulation 27 (ill-health benefits: continuity of existing applications), for “(8V)” substitute “(8U)”.

Amendment of regulation 31

95. Paragraph (3) of regulation 31 (partial retirement) is amended as follows.

- (1) In sub-paragraph (a), after “the option day;” omit “and”.
- (2) After sub-paragraph (b), add—

“; and

 - (c) taken together with any increase to which the member has become entitled as a result of the option or election, the aggregate of the member's pension under the 2008 Regulations and the 2015 Regulations is not less than 0.05% of the member's lifetime allowance on the option day.”.

Amendment of regulation 40

- 96.**—(1) The table in paragraph (1) of regulation 40 (death in service) is amended as follows.
- (2) In column 2, for “2015 Scheme” (eight times) substitute “new scheme”.
 - (3) In Part 2(2) of that table, adjacent to the entry in column 1 referring to an original entitlement to a pension under regulation 2.E.12(3)(a), in column 2 for “37.5% of the pension” substitute “the appropriate proportion”.

(2) Part 2 of the table is concerned with entitlement derived from the 2008 Section as set out in [S.I. 2008/653](#).