
STATUTORY INSTRUMENTS

2019 No. 418

The National Health Service Pension Schemes,
Additional Voluntary Contributions and Injury
Benefits (Amendment) Regulations 2019

PART 3

Amendments to the National Health Service Pension Scheme Regulations 2008

General

42. The National Health Service Pension Scheme Regulations 2008(1) are amended in accordance with this Part.

Amendment of regulation 2.A.1

43.—(1) Regulation 2.A.1 (interpretation: general) is amended as follows.

(2) Omit the paragraph reference “(2)” immediately preceding the definition of “contracting-out requirements” and re-number existing paragraph (2A) as paragraph (2).

(3) In paragraph (1) (following the amendments made by paragraph (2) of this regulation)—

(a) at the appropriate place in the alphabetical order, insert—

““the 2016 Order” means the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016(2);

“section 9(2B) rights” has the same meaning it has in the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015(3);”;

(b) at the appropriate place in the alphabetical order, insert—

““the health service” has the meaning given in section 275 of the 2006 Act;”;

(c) omit the definition of “contracting-out requirements”;

(d) for the definition of “NHS standard sub-contract”(4) substitute—

““NHS standard sub-contract” means a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance”(5);”;

(e) for the definition of “officer” substitute—

(1) [S.I. 2008/653](#). Relevant amending instruments are [S.I. 2009/2446](#), [2010/492](#), [2013/413](#), [2014/570](#), [2015/96](#), [2016/245](#) and [2017/275](#).

(2) [S.I. 2016/252](#).

(3) [S.I. 2015/1677](#).

(4) This definition was inserted by regulation 21(e) of [S.I. 2016/245](#) and amended by regulation 12(1) and (4) of [S.I. 2017/275](#).

(5) Electronic copies of the guidance referred to in that definition can be obtained from www.england.nhs.uk. E-mail: england.contactus@nhs.net. Hard copies may be obtained from NHS England at: NHS Customer Contact Centre, NHS England, PO Box 16738, Redditch, B97 9PT. Tel: 0300 311 2233.

““officer” means a person employed by an employing authority including a GP Registrar and a non-GP provider, but does not include—

- (a) a GP performer;
- (b) a dentist performer;
- (c) a person engaged under a contract for services;”.

Amendment of regulation 2.A.2

44. In regulation 2.A.2 (meaning of “pensionable service”), in paragraph (2), in sub-paragraph (c), in paragraph (i)

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

Amendment of regulation 2.C.2

45. In regulation 2.C.2 (contribution rate for members other than non-GP providers), in paragraph (2)(6), for—

- (a) “of the scheme years 2015-16 to 2018-2019 inclusive” substitute “scheme year from 2015-16”;
- (b) the heading to the table substitute “Scheme Years from 2015-16”.

Amendment of regulation 2.C.4

46. In regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers), in paragraph (20), for—

- (a) “in respect of the 2015-2016 to 2018-2019 scheme years, table 2” substitute “in respect of each scheme year from 2015-2016, table 2”;
- (b) the heading to table 2, substitute “Scheme Years from 2015-2016”.

Amendment of regulation 2.C.5

47. In regulation 2.C.5 (contributions by employing authorities: general), in paragraph (4), for “14.3%” substitute “20.6%”(7).

Amendment of regulation 2.C.18

48. In regulation 2.C.18 (repayment of contributions), in paragraph (3), for sub-paragraph (a) substitute—

- “(a) such part of any contributions equivalent premium paid in respect of the person under section 55 of the 1993 Act or article 3 of the 2016 Order, and”.

Amendment of regulation 2.D.22

49.—(1) Regulation 2.D.22 (guaranteed minimum pensions etc) is amended as follows.

(2) In paragraph (7), in sub-paragraph (a), for “rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

(6) As amended by regulations 17 and 22(1) and (2) of [S.I. 2015/96](#).

(7) Paragraph (4) was amended by regulations 17 and 26 of [S.I. 2015/96](#).

(3) In paragraph (8), in sub-paragraph (b), for “his rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

Amendment of regulation 2.E.1

50. In regulation 2.E.1 (surviving adult dependants’ pensions), in paragraph (2), for “nominated partner” substitute “scheme partner”.

Amendments of regulation 2.E.2

51. For regulation 2.E.2 (meaning of “surviving nominated partner”) substitute—

“Meaning of “surviving scheme partner”

2.E.2. In this Part, a person (P) is a “surviving scheme partner” if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and P were living together as if they were husband and wife or civil partners,
- (b) the member and P were not prevented from marrying or entering into a civil partnership,
- (c) the member and P were financially interdependent or P was financially dependent on the member, and
- (d) neither the member nor P were living with a third person as if they were husband and wife or as if they were civil partners.”.

Amendment of regulation 2.E.3

52. In regulation 2.E.3 (amount of pensions under regulation 2.E.1: active and non-contributing members), in paragraph (5) —

- (a) for “55(2)” substitute “55”;
- (b) after “Act” insert “or article 3 of the 2016 Order”.

Amendment of regulation 2.E.6

53. In regulation 2.E.6 (recent leavers), in paragraph (2)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

Amendment of regulation 2.E.9

54. In regulation 2.E.9 (meaning of “dependent child”), in paragraph (2)—

- (a) in sub-paragraph (d)—
 - (i) for “regulation 2.E.2(1)(b)(i)” substitute “regulation 2.E.2(a) and (b)”;
 - (ii) for each reference to “nominated partner” substitute “scheme partner”;
- (b) in sub-paragraph (e) for “nominated partner” substitute “scheme partner”;
- (c) in sub-paragraph (f) for “nominated partner” substitute “scheme partner”.

Amendment of regulation 2.J.7

55.—(1) Regulation 2.J.7 (forfeiture of rights to benefits) is amended as follows.

(2) In paragraph (5), in sub-paragraph (a) for “nominated partner” substitute “surviving scheme partner”.

(3) after paragraph (7), insert—

“(8) If, on or after 1st April 2019, a member is—

- (a) charged with an offence; or
- (b) convicted of an offence,

which, in the opinion of the Secretary of State, may lead to all or part of the member’s benefits being forfeited under paragraph (1), the Secretary of State may make a suspension decision in accordance with paragraphs (10) to (15) of this regulation.

(9) If, on or after 1st April 2019, any of the persons referred to in sub-paragraphs (a) to (d) of paragraph (5) are charged with, or convicted of an offence which, in the opinion of the Secretary of State, may lead to all or part of any rights to benefits or other amounts payable in respect of a member being forfeited under paragraph (4), the Secretary of State may make a suspension decision in accordance with paragraphs (10), (11), and (16) to (19) of this regulation.

(10) A suspension decision is a decision of the Secretary of State suspending the right to, and the payment of, all or part of any benefit or other amounts payable—

- (a) which the member is in receipt of, or becomes entitled to,
- (b) in respect of a member,

under these Regulations.

(11) If the Secretary of State makes a suspension decision under paragraph (8) or (9), that decision will continue to apply—

- (a) until the date of any direction made by the Secretary of State under this regulation; or
- (b) where the Secretary of State determines not to direct forfeiture under this regulation, the date of that decision.

(12) Paragraph (13) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 2.D (members’ retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (1).

(13) The Secretary of State will pay to the member described in paragraph (12) an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).

(14) Paragraph (15) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 2.D (members’ retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(15) The Secretary of State will pay to the member described in paragraph (14) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).

(16) Paragraph (17) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (4) in respect of the benefits to which that decision relates.

(17) The Secretary of State will pay to the person to whom paragraph (9) applies an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).

(18) Paragraph (19) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(19) The Secretary of State will pay to the person described in paragraph (9) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 2.J.9 (interest on late payment of benefits and refunds of contributions).”.

Amendment of regulation 2.J.14

56.—(1) Regulation 2.J.14 (employing authority and certain member record keeping and contribution estimates) is amended as follows.

(2) For paragraph (2) substitute—

“(2) As regards a GMS or a PMS practice or an APMS contractor, in respect of each scheme year, the practice or contractor must provide the host Board with a statement of estimated pensionable earnings in respect of any non-GP provider that is a GMS or PMS practice or APMS contractor or who assists in the provision of NHS services provided by that GMS or PMS practice or an APMS contractor, at least 1 month before the beginning of that scheme year.”.

(3) For paragraph (12) substitute—

“(12) If the Secretary of State so requests, in respect of each scheme year an employing authority must, 1 month before the beginning of that scheme year, and in a manner prescribed by the Secretary of State, provide the Secretary of State with a statement of estimated total contributions due under regulations 2.C.1, 2.C.5 and 2.C.8.”.

Amendment of regulation 2.K.20

57. In regulation 2.K.20 (nominations and notices accepted by the Secretary of State under the 1995 Regulations to apply under Chapter 2.E of these Regulations)(**8**), in paragraph (2) omit sub-paragraph (c).

Amendment of regulation 2.L.2

58. In regulation 2.L.2 (nominations and notices accepted by the Secretary of State under the 1995 Regulations and Chapter 2.E of these Regulations)(**9**), in paragraph (2) omit sub-paragraph (c).

(8) Chapter 2.K was inserted by regulation 52 of S.I. 2009/2446.

(9) Chapter 2.L was inserted by regulations 16 and 35 of S.I. 2010/492.

Amendment of regulation 3.A.1

59.—(1) Regulation 3.A.1 (interpretation of part 3: general) is amended as follows.

(2) At the appropriate place in the alphabetical order insert—

““the 2016 Order” means the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016⁽¹⁰⁾;

“section 9(2B) rights” has the same meaning it has in the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015⁽¹¹⁾”.

(3) Omit the definition of “contracting-out requirements”.

(4) For the definition of “NHS standard sub-contract”⁽¹²⁾ substitute—

““NHS standard sub-contract” means a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance”⁽¹³⁾”.

(5) For the definition of “officer” substitute—

““officer” means a person employed by an employing authority including a GP Registrar and a non-GP provider, but does not include—

- (a) a GP performer;
- (b) a dentist performer;
- (c) a person engaged under a contract for services”.

Amendment of regulation 3.A.3

60. In regulation 3.A.3 (meaning of “pensionable service”), in paragraph (2), in sub-paragraph (c), in paragraph (i)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

Amendment of regulation 3.A.7

61. In regulation 3.A.7 (meaning of “pensionable earnings”), in paragraph (2), in sub-paragraph (e)⁽¹⁴⁾, after “any sums paid” insert “by an employing authority or a local authority”.

Amendment of regulation 3.A.13

62.—(1) Regulation 3.A.13 (meaning of pensionable earnings in relation to other practitioners) is amended as follows.

(2) In paragraph (1), in sub-paragraph (d)⁽¹⁵⁾, after “any sums paid” insert “by an employing authority or a local authority”.

⁽¹⁰⁾ [S.I. 2016/252](#).

⁽¹¹⁾ [S.I. 2015/1677](#).

⁽¹²⁾ This definition was inserted by regulations 20 and 39(e) of [S.I. 2016/245](#) and amended by regulations 10 and 22(4) of [S.I. 2017/275](#).

⁽¹³⁾ Electronic copies of the guidance referred to in that definition can be obtained from www.england.nhs.uk. E-mail: england.contactus@nhs.net. Hard copies may be obtained from NHS England at: NHS Customer Contact Centre, NHS England, PO Box 16738, Redditch, B97 9PT. Tel: 0300 311 2233.

⁽¹⁴⁾ Sub-paragraph (e) was inserted by regulations 22 and 53(1) and (5) of [S.I. 2013/413](#).

⁽¹⁵⁾ Sub-paragraph (d) was inserted by regulations 22 and 57(1) and (3) of [S.I. 2013/413](#).

(3) In paragraph (4)(16), after “2006 Act” insert “pursuant to a contract with an employing authority or a local authority”.

Amendment of regulation 3.C.2

63. In regulation 3.C.2 (members’ contribution rate)—

- (a) in paragraph (16)(17) for “NDPS is the number of days of dentist performer service from the date the dentist performer service commenced in the scheme year to the end of the scheme year” substitute “NDPS is the number of days of dentist performer service in the scheme year”;
- (b) in paragraph (22)(18)—
 - (i) for sub-paragraph (b) substitute “(b) in respect of each scheme year from 2015-2016, table 2.”;
 - (ii) for the heading to table 2 substitute “Scheme Years from 2015-16”.

Amendment of regulation 3.C.3

64. In regulation 3.C.3 (contributions by employing authorities: general), in paragraph (5), for “14.3%” substitute “20.6%”(19).

Amendment of regulation 3.C.16

65. In regulation 3.C.16 (repayment of contributions), in paragraph (3), for sub-paragraph (a) substitute—

- “(a) such part of any contributions equivalent premium paid in respect of the person under section 55 of the 1993 Act or article 3 of the 2016 Order, and”.

Amendment of regulation 3.D.18

66.—(1) Regulation 3.D.18 (guaranteed minimum pensions etc) is amended as follows.

(2) In paragraph (7)(20), in sub-paragraph (a) for “rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

(3) In paragraph (8), in sub-paragraph (b) for “his rights under section 9(2B) of the 1993 Act” substitute “the person’s section 9(2B) rights”.

Amendment of regulation 3.E.1

67. In regulation 3.E.1 (surviving adult dependants’ pensions), in paragraph (2) for “nominated partner” substitute “scheme partner”.

Substitution of regulation 3.E.2

68. For regulation 3.E.2 (meaning of “surviving nominated partner”) substitute—

(16) Paragraph (4) was amended by regulations 22 and 57(1) and (5) of [S.I. 2013/413](#) and regulations 20 and 43(1) and (3) of [S.I. 2016/245](#).

(17) As amended by regulation 42 of [S.I. 2014/570](#).

(18) Paragraph 22 was inserted by regulation 42 of [S.I. 2014/570](#) and amended by regulations 17 and 41(1) and (3) of [S.I. 2015/96](#).

(19) As amended by regulations 17 and 42 of [S.I. 2015/96](#).

(20) Paragraph (7) was amended by regulation 103 and paragraph 1 of Schedule 2 of [S.I. 2009/2446](#).

“Meaning of “surviving scheme partner”

3.E.2. In this Part, a person (P) is a “surviving scheme partner” if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and P were living together as if they were husband and wife or civil partners,
- (b) the member and P were not prevented from marrying or entering into a civil partnership,
- (c) the member and P were financially interdependent or P was financially dependent on the member, and
- (d) neither the member nor P were living with a third person as if they were husband and wife or as if they were civil partners.”.

Amendment of regulation 3.E.3

69. In regulation 3.E.3 (amount of pensions under regulation 3.E.1: active and non-contributing members), in paragraph (5)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

Amendment of regulation 3.E.6

70. In regulation 3.E.6 (recent leavers), in paragraph (2)—

- (a) for “55(2)” substitute “55”;
- (b) after “Act”, insert “or article 3 of the 2016 Order”.

Amendment of regulation 3.E.9

71. In regulation 3.E.9 (meaning of “dependent child”), in paragraph (2)—

- (a) in sub-paragraph (d)—
 - (i) for “regulation 3.E.2(1)(b)(i)” substitute “regulation 3.E.2(a) and (b)”;
 - (ii) for each reference to “nominated partner” substitute “scheme partner”;
- (b) in sub-paragraph (e) for “nominated partner” substitute “scheme partner”;
- (c) in sub-paragraph (f) for “nominated partner” substitute “scheme partner”.

Amendment of regulation 3.J.7

72.—(1) Regulation 3.J.7 (forfeiture of rights to benefits) is amended as follows.

(2) In paragraph (5), in sub-paragraph (a) for “nominated partner” substitute “surviving scheme partner”.

(3) After paragraph (7), insert—

“(8) If, on or after 1st April 2019, a member is—

- (a) charged with an offence; or
- (b) convicted of an offence,

which, in the opinion of the Secretary of State, may lead to all or part of the member’s benefits being forfeited under paragraph (1), the Secretary of State may make a suspension decision in accordance with paragraphs (10) to (15) of this regulation.

(9) If, on or after 1st April 2019, any of the persons referred to in sub-paragraphs (a) to (d) of paragraph (5) are charged with, or convicted of an offence which, in the opinion of the Secretary of State, may lead to all or part of any rights to benefits or other amounts payable in respect of a member being forfeited under paragraph (4), the Secretary of State may make a suspension decision in accordance with paragraphs (10), (11), and (16) to (19) of this regulation.

(10) A suspension decision is a decision of the Secretary of State suspending the right to, and the payment of, all or part of any benefit or other amounts payable—

- (a) which the member is in receipt of, or becomes entitled to,
- (b) in respect of a member,

under these Regulations.

(11) If the Secretary of State makes a suspension decision under paragraph (8) or (9), that decision will continue to apply—

- (a) until the date of any direction made by the Secretary of State under this regulation; or
- (b) where the Secretary of State determines not to direct forfeiture under this regulation, the date of that decision.

(12) Paragraph (13) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 3.D (members' retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (1).

(13) The Secretary of State will pay to the member described in paragraph (12) an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).

(14) Paragraph (15) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (8) in respect of a member otherwise entitled to the payment of a pension under Chapter 3.D (members' retirement benefits) of these Regulations; and
- (b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(15) The Secretary of State will pay to the member described in paragraph (14) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).

(16) Paragraph (17) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and
- (b) the Secretary of State subsequently determines not to issue a direction under paragraph (4) in respect of the benefits to which that decision relates.

(17) The Secretary of State will pay to the person to whom paragraph (9) applies an amount equal to the total amount of the benefit payments suspended together with the interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).

(18) Paragraph (19) applies if—

- (a) the Secretary of State makes a suspension decision under paragraph (9); and

(b) the Secretary of State subsequently directs forfeiture of an amount less than the total amount suspended.

(19) The Secretary of State will pay to the person described in paragraph (9) an amount equal to the difference between the total amount of the benefit payments suspended and the amount forfeited together with the interest due under regulation 3.J.9 (interest on late payment of benefits and refunds of contributions).”.

Amendment of regulation 3.J.14

73.—(1) Regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates) is amended as follows.

(2) After paragraph (13) insert—

“(13A) If a GMS or PMS practice, an APMS contractor or a GDS or PDS practice does not provide the statement referred to in paragraph (11) in accordance with paragraph 13(a), the member contributions in respect of the members of that practice or contractor referred to in paragraph 11(a) to (e), will be payable at the maximum contribution percentage rate specified in column 2 of table 2 in paragraph (22) of regulation 3.C.2 based on estimated pensionable pay as determined by the host Board.”.

(3) In paragraph (14)(a) before “provide the Secretary of State” insert “if the Secretary of State so requests,”.

(4) In paragraph (15) for the first reference to “2 months after the end” substitute “1 month before the beginning”.

Amendment of regulation 3.K.12

74. In regulation 3.K.12 (nominations and notices accepted by the Secretary of State under the 1995 Regulations to apply under Chapter 3.E of these Regulations)(**21**), in paragraph (2) omit subparagraph (c).

Amendment of regulation 3.L.2

75. In regulation 3.L.2 (nominations and notices accepted by the Secretary of State under the 1995 Regulations and Chapter 3.E of these Regulations)(**22**), in paragraph (2) omit subparagraph (c).

(21) Chapter 3.K was inserted by regulation 94 of S.I. 2009/2446.

(22) Chapter 3.L was inserted by regulations 16 and 52 of S.I. 2010/492.