
STATUTORY INSTRUMENTS

2019 No. 418

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

PART 4

Amendments to the National Health Service Pension Scheme Regulations 2015

General

76. The National Health Service Pension Scheme Regulations 2015⁽¹⁾ are amended in accordance with this Part.

Amendment of regulation 20

77. In regulation 20 (pensionable service), in paragraph (2), in sub-paragraph (c), in paragraph (i), after “Act”, insert “or article 3 of the 2016 Order”.

Amendment of regulation 30

78. In regulation 30 (members’ contributions: employees), in paragraph (3), for—
- (a) “of the scheme years 2015/16 to 2018/19” substitute “scheme year from 2015/16”;
 - (b) the heading to the table substitute “Table Scheme Years from 2015/16”.

Amendment of regulation 31

79. In regulation 31 (members’ contributions: practitioners and non-GP providers)—
- (a) in paragraph (3), for “of the scheme years 2015/16 to 2018/19” substitute “scheme year from 2015/16”;
 - (b) in paragraph (9), for the heading to the table substitute “Table Scheme Years from 2015/16”.

Amendment of regulation 33

80. In regulation 33 (contributions by employing authorities), in paragraph (1), for “14.3%” substitute “20.6%”.

Amendment of regulation 37

81. In regulation 37 (members’ contributions: records and estimates), in paragraph (7), before “An employing authority” insert “If the scheme manager so requests,”.

(1) [S.I. 2015/94](#). Relevant amending instruments are [S.I. 2016/245](#) and [2017/275](#).

Amendment of regulation 38

82. In regulation 38 (members' contributions: supplementary: medical practitioners and non-GP providers), in paragraph (3), in sub-paragraph (a) for "NDPS is the number of days of group D service from the date M's service commenced in the scheme year to the end of the scheme year" substitute "NDPS is the number of days of M's group D service in the scheme year".

Amendment of regulation 39

83. In regulation 39 (members' contributions: supplementary: dental practitioners), in paragraph (3), in sub-paragraph (a) for "NDPS is the number of days of dental practitioner service from the date the dental practitioner service commenced in the scheme year to the end of the scheme year" substitute "NDPS is the number of days of dental practitioner service in the scheme year".

Amendment of regulation 41

- 84.** In regulation 41 (amount of refund), in paragraph (2), in sub-paragraph (a)—
- (a) for "as is permitted pursuant to section 61" substitute "under section 55";
 - (b) after "Act", insert "or article 3 of the 2016 Order".

Amendment of regulation 110

85.—(1) Regulation 110 (guaranteed minimum pension etc) is amended as follows.

(2) In paragraph (8), 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 (9), 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 113

86. In regulation 113 (surviving adult dependant pension), in paragraph (2), for sub-paragraph (c) substitute—

- "(c) a surviving scheme partner."

Substitution of regulation 114

87. For regulation 114 (surviving nominated partner) substitute—

"Surviving scheme partner

114.—(1) A person (P) is the scheme partner of a member if –

- (a) the member and P are living together as if they are husband and wife or civil partners,
- (b) the member and P are not prevented from marrying or entering a civil partnership,
- (c) the member and P are financially interdependent or P is financially dependent on the member, and
- (d) neither the member or P is living with a third person as if they are husband and wife or civil partners.

(2) A person is a surviving scheme partner of a member if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member's death, the person was the scheme partner of that member."

Amendment of regulation 115

88. In regulation 115 (amount of pension: survivor of active member), in paragraph (8), in sub-paragraph (b), in paragraph (i)—

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

Amendment of regulation 118

89. In regulation 118 (recent leavers), in paragraph (3), in sub-paragraph (a)—

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

Amendment of regulation 122

90.—(1) Regulation 122 (eligible child), paragraph (2) is amended as follows.

- (2) In sub-paragraph (d)—
 - (a) for “nominated partner” substitute “scheme partner”;
 - (b) for “regulation 114(1)(b)(i)” substitute “regulation 114(1)(a) and (d)”.
- (3) In sub-paragraph (e), in paragraph (ii), for “nominated partner” substitute “surviving scheme partner”.
- (4) In sub-paragraph (f), in paragraph (ii), for “nominated partner” substitute “surviving scheme partner”.

Amendment of Schedule 3

91.—(1) Schedule 3 (administrative matters), in paragraph 12 (forfeiture of rights to benefits) is amended as follows.

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

(3) After sub-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 Part 5 (members' 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 paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.

(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 Part 5 (members' 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 paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.

(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 paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.

(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 paragraph 9 (interest on late payment of benefits and refunds of member contributions) of Schedule 3.”.

Amendment of Schedule 10

92. In Schedule 10 (practitioner income), in paragraph 2 (medical practitioner), in Case 5 after “Payments” insert “made by an employing authority or a local authority”.

Amendment of Schedule 12

93.—(1) Schedule 12 (practitioner contribution payments) is amended as follows.

(2) In paragraph 4 (information to be provided to scheme manager), after sub-paragraph (4) insert—

“(5) If an employing authority, GDS or PDS contractor does not provide the statement referred to in sub-paragraph (1) in accordance with sub-paragraph (3)(a), the member contributions in respect of the members of that employing authority or contractor referred to in sub-paragraph (1)(a) to (e), will be payable at the maximum contribution percentage rate specified in column 2 of the table in paragraph (9) of regulation 31 based on estimated pensionable pay as determined by the host Board.”.

(3) In paragraph 10 (recovery of unpaid contributions), in sub-paragraph (2)(b), for “such a deduction must be to the member’s advantage and is subject to the member’s consent” substitute “such a deduction may only be made where the Secretary of State has notified the member of an intention to do so”.

Amendment of Schedule 15

94. In Schedule 15 (definitions)—

- (a) after the expression “the 2013 Act” in Column 1 insert a new expression “the 2016 Order” and for the corresponding entry in Column 2 insert “means the Pensions Act 2014 (Contributions Equivalent Premium) (Consequential Provision) and (Savings) (Amendment) Order 2016(2);
- (b) for the entry in Column 2 corresponding to the expression “NHS standard sub-contract”(3), substitute “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”(4);
- (c) after the expression “scheme year” in Column 1 insert a new expression “section 9(2B) rights” and for the corresponding entry in Column 2 insert “has the same meaning it has in the Occupational Pension Schemes (Schemes that were Contracted-out) (No. 2) Regulations 2015”.

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

(3) This definition was inserted by regulations 29 and 49 (1) and (2) of [S.I. 2017/275](#).

(4) 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.