
STATUTORY INSTRUMENTS

2021 No. 631

**The National Health Service Pension Schemes and
Injury Benefits (Amendment) Regulations 2021**

PART 3

Amendments to the National Health Service Pension Scheme Regulations 2008

General

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

Amendment of regulation 2.A.1

14. In regulation 2.A.1 (interpretation: general)—

(a) after the definition of “medical performers’ list” insert—

““New to Partnership Payment Scheme” means the scheme set out in paragraphs 2.14 to 2.16 of the “Update to the GP contract agreement 2020/21 – 2023/24” dated 6th February 2020;”;

(b) for the definition of “NHS standard sub-contract”⁽²⁾ substitute—

““NHS standard sub-contract” means a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Template Sub-Contract for the Provision of Clinical Services for use with the NHS Standard Contract 2021/22 (Full Length and Shorter Form versions) Guidance”.”.

Amendment of regulation 2.A.8

15. In regulation 2.A.8 (meaning of “pensionable pay”)⁽³⁾, for paragraph (5) substitute—

“(5) In the case of a non-GP provider who is not in receipt of any salary, wages, fees or any other regular payment, pensionable pay means practitioner income less—

(a) any sum on account of practice expenses (for these purposes, contributions payable under regulation 2.C.1(5) or (6) are neither practitioner income nor practice expenses); and

(b) any payment or allowance made pursuant to the New to Partnership Payment Scheme.”.

(1) S.I. 2008/653. Relevant amending instruments are S.I. 2008/2263, 2009/381, 2009/2446, 2010/492, 2011/2586, 2013/413, 2014/570, 2015/96, 2016/245, 2017/275 and 2019/418.
(2) This definition was substituted by regulation 43(3)(d) of S.I. 2019/418.
(3) Relevant amending instruments are S.I. 2013/413 and 2015/96.

Amendment of regulation 2.D.8

16.—(1) Regulation 2.D.8 (early retirement on ill-health (active members and non-contributing members))(4) is amended as follows.

(2) In paragraph (5)(5)—

(a) for sub-paragraph (a) substitute—

“(a) is increased by the enhancement period where the member—

(i) has not had a break in pensionable service of 12 months or more; or

(ii) has returned to pensionable employment 12 months or more after having a break in such service and it would be more favourable to the member to treat the member’s pensionable service before and after the break, and all such other breaks (if any), as continuous;”;

(b) in sub-paragraph (b)(6), after “(a)” insert “(ii)”.

Amendment of regulation 2.E.20

17.—(1) Regulation 2.E.20 (amount of lump sum: pension credit members) is amended as follows.

(2) Omit paragraph (3).

(3) In paragraph (4), omit the definition of “the beginning date” and the “and” which precedes it.

Amendment of regulation 2.J.7

18. In regulation 2.J.7 (forfeiture of rights to benefits), in paragraph (5)(a)(7), for “nominated partner” substitute “surviving scheme partner”.

Amendment of regulation 3.A.1

19. In regulation 3.A.1 (interpretation of Part 3: general), in paragraph (1)—

(a) in paragraph (e) of the definition of “locum practitioner”(8), after “Local Health Board” insert “or the National Health Service Commissioning Board”;

(b) after the definition of “medical performers list” insert—

““New to Partnership Payment Scheme” means the scheme set out in paragraphs 2.14 to 2.16 of the “Update to the GP contract agreement 2020/21 – 2023/24” dated 6th February 2020;”;

(c) for the definition of “NHS standard sub-contract”(9) substitute—

““NHS standard sub-contract” means a sub-contract that complies with the National Health Service Commissioning Board’s guidance “NHS Template Sub-Contract for the Provision of Clinical Services for use with the NHS Standard Contract 2021/22 (Full Length and Shorter Form versions) Guidance”;”

(4) Relevant amending instruments are [S.I. 2009/381](#), [2009/2446](#) and [2010/492](#).

(5) Paragraph (5) was amended by regulation 29(2) of [S.I. 2009/2446](#).

(6) Sub-paragraph (b) was substituted by regulation 29(2) of [S.I. 2009/2446](#).

(7) Regulation 50 of [S.I. 2019/418](#), which sought to amend regulation 2.E.1 by substituting “scheme partner” for “nominated partner” in paragraph (2) of regulation 2.E.1, was quashed by order of the High Court in *R. (on the application of British Medical Association) v Secretary of State for Health and Social Care* [2020] EWHC 64 (Admin).

(8) This definition was amended by regulation 51(3)(k) of [S.I. 2013/413](#).

(9) This definition was substituted by regulation 59(4) of [S.I. 2019/418](#).

Amendment of regulation 3.A.7

20. In regulation 3.A.7 (meaning of “pensionable earnings”)(**10**), for paragraph (1)(a) substitute—

- “(a) in the case of a type 1 medical practitioner, practitioner income less—
 - (i) any sum on account of practice expenses (for these purposes, C3 contributions payable under regulation 3.C.5(5) or (6) are neither practitioner income nor practice expenses); and
 - (ii) any payment or allowance made pursuant to the New to Partnership Payment Scheme; and”.

Amendment of regulation 3.D.7

21.—(1) Regulation 3.D.7 (early retirement on ill-health (active members and non-contributing members))(**11**) is amended as follows.

(2) In paragraph (5)—

(a) for sub-paragraph (a) substitute—

- “(a) is increased by the enhancement period where the member—
 - (i) has not had a break in pensionable service of 12 months or more; or
 - (ii) has returned to pensionable employment 12 months or more after having a break in such service and it would be more favourable to the member to treat the member’s pensionable service before and after the break, and all such other breaks (if any) as continuous;”;

(b) in sub-paragraph (b)(**12**), after “(a)” insert “(ii)”.

(3) In paragraph (7)—

(a) for “If the member’s pensionable service includes both officer service and practitioner service—” substitute “If a member is entitled to have the member’s pensionable service increased by the enhancement period—”;

(b) in sub-paragraph (b), after “(under Part 2 of these Regulations)” insert “, if any”.

Amendment of regulation 3.E.20

22.—(1) Regulation 3.E.20 (amount of lump sum: pension credit members) is amended as follows.

(2) Omit paragraph (3).

(3) In paragraph (4), omit the definition of “the beginning date” and the “and” which precedes it.

Amendment of regulation 3.J.7

23. In regulation 3.J.7 (forfeiture of rights to benefits), in paragraph (5)(a)(**13**) for “nominated partner” substitute “surviving scheme partner”.

(10) Relevant amending instruments are 2008/2263, 2009/2446, 2011/2586, 2013/413, 2014/570, 2016/245, 2019/418.

(11) Relevant amending instruments are S.I. 2009/381, 2009/2446 and 2010/492.

(12) Sub-paragraph (b) was substituted by regulation 71(2) of S.I. 2009/2446.

(13) Regulations 72(1) and (2) of S.I. 2019/418, which sought to amend regulation 3.J.7 by substituting “scheme partner” for “nominated partner” in paragraph (5) of regulation 3.J.7, was quashed by order of the High Court in *R. (on the application of British Medical Association) v Secretary of State for Health and Social Care* [2020] EWHC 64 (Admin).

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