STATUTORY INSTRUMENTS

2017 No. 275

NATIONAL HEALTH SERVICE, ENGLAND AND WALES
PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

The National Health Service Pension Scheme and Additional Voluntary Contributions (Amendment) Regulations 2017

Made - - - -	*6th March 2017*
Laid before Parliament	*8th March 2017*
Coming into force - -	*1st April 2017*

The Secretary of State for Health, with the consent of the Treasury, makes the following Regulations in exercise of the powers conferred by sections 10(1) and (2) and 12(1), (2) and (4) of, and Schedule 3 to, the Superannuation Act 1972(**1**) and sections 1, 3 and 25 of, and Schedule 3 to, the Public Service Pensions Act 2013(**2**).

In accordance with section 10(4) of the Superannuation Act 1972 and section 21 of the Public Service Pensions Act 2013, the Secretary of State has consulted with such representatives of persons likely to be affected by these Regulations, as appeared to the Secretary of State to be appropriate.

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service Pension Scheme and Additional Voluntary Contributions (Amendment) Regulations 2017.

(**1**) 1972 c.11. Section 10(1) was amended by sections 57 and 58 of, and Schedule 5 to, the National Health Service Reorganisation Act 1973 (c. 32) and section 4(2) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) ("the 1990 Act"). Section 12(2) was amended by section 10(1) of the 1990 Act. As to Treasury consent, see section 10(1) of the Superannuation Act 1972, article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670) and section 3(5) of the Public Service Pensions Act 2013.

(**2**) 2013 c.25.

(2) These Regulations come into force on 1st April 2017 and have effect—

(a) in respect of regulations 33, 36(2), 37(2), 38, 46, 48, 51 and 52 retrospectively from the 1st April 2015;

(b) in respect of regulation 4(3) and (4) retrospectively from 1st April 2016;

(c) in all other respects, from the 1st April 2017.

PART 2

Amendment of the National Health Service Pension Scheme Regulations 1995

General

2. The National Health Service Pension Scheme Regulations 1995(**3**) are amended in accordance with this Part.

Amendment of regulation A2

3.—(1) Regulation A2 (interpretation) (**4**)is amended as follows.

(2) In the definition of "NHS standard contract"(**5**)—

(a) for "standard commissioning contract", substitute "terms and conditions";

(b) before "2012", insert "Regulations".

(3) In the definition of "NHS standard sub-contract"(**6**), for "2015/16" substitute "2016/17"(**7**).

(4) In paragraph (c) of the definition of "practice staff"(**8**), after "NHS standard sub-contract", insert "where the party to the NHS standard contract in question is an employing authority".

(5) In the definition of "qualifying contract"(**9**), after sub-paragraph (c), insert—

"; or

(d) an NHS standard sub-contract;".

(6) At the appropriate place in the alphabetical order, insert—

""scheme administration charge" means the charge provided for in regulation D4.".

Amendment of regulation D3

4.—(1) Regulation D3 (further contributions by employing authorities in respect of excessive pay increases)(**10**) is amended as follows.

(**3**) S.I. 1995/300 amended by S.I. 1997/646, S.I. 1998/667, S.I. 1998/2217, S.I. 2000/606, S.I. 2002/2469, S.I. 2003/631, S.I. 2004/665, S.I. 2004/696, S.I. 2004/865, S.I. 2004/1016, S.I. 2005/661 (with retrospective effect), S.I. 2005/3074, S.I. 2006/600, S.I. 2007/961, S.I. 2007/3280, S.I. 2008/655, S.I. 2008/2263 (partly with retrospective effect), S.I. 2009/381 (partly with retrospective effect), S.I. 2009/2446 (with retrospective effect), S.I. 2010/492, S.I. 2011/2586, S.I. 2012/610 (with retrospective effect), S.I. 2013/413 (partly with retrospective effect and fully as from 1st April 2013), S.I. 2014/78, S.I. 2015/96, S.I. 2015/1985, S.I. 2016/245 (and by S.I. 1996/971, S.I. 2005/2011 (as amended by S.I. 1995/866)); modified by S.I. 2005/3137.

(**4**) This regulation was last amended by S.I. 2016/245.

(**5**) This definition was inserted by regulation 3(c) of S.I. 2014/570.

(**6**) This definition was inserted regulation by 3(d) of S.I. 2014/245.

(**7**) Electronic copies of the guidance referred to in that definition can be obtained from www.gov.uk/dh. Hard copies may be obtained from the Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

(**8**) This definition was inserted by regulation 3(1) and (3) S.I. 1997/1888.

(**9**) This definition was inserted by regulation 3(c) of S.I. 2014/570.

(**10**) This regulation was inserted by regulation 8 of S.I. 2014/570.

(2) In sub-paragraph (c) of paragraph (13), for "administration charge" substitute "supplementary charge".

(3) After paragraph (19), insert—

"(19A) An increase in a member's pensionable pay solely due to an increase in the national minimum wage is to be ignored for the purposes of this regulation.".

(4) In paragraph (21), after sub-paragraph (h) insert—

"(i) "national minimum wage" means the single hourly rate prescribed by the Secretary of State pursuant to section 1(3) of the National Minimum Wage Act 1998"(**11**).

New regulation D4

5. After regulation D3 (further contributions by employing authorities in respect of excessive pay increases), insert—

"**Scheme Administration Charge**

D4.—(1) Each employing authority must, in respect of each member who is liable to contribute to this Section of the scheme, pay a scheme administration charge in accordance with this regulation.

(2) The scheme administration charge is to be paid to the Secretary of State on the same day, and in respect of the same period, as the employer's standard rate contributions under regulation D2 are to be paid by that employing authority in respect of the member referred to in paragraph (1).

(3) The scheme administration charge is to be calculated as a percentage of that member's pensionable pay, or as the case may be, pensionable earnings, for the period mentioned in paragraph (2).

(4) The percentage mentioned in paragraph (3) is to be determined by the Secretary of State taking into account the administrative costs of running the scheme and notified to each employing authority.

(5) For the purposes of paragraph (3), "pensionable earnings" has the meaning given in paragraph 1 of Schedule 2.".

Amendment of regulation M8

6.—(1) Regulation M8 (member's right to transfer a preserved pension to the 2015 Scheme)(**12**) is amended as follows.

(2) After paragraph (5), insert—

"(5A) The Secretary of State must provide a member to whom this regulation applies with a notice in writing stating that the member has the right to request a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations ("a statement of entitlement").

(5B) The Secretary of State must provide the member with the notice referred to in paragraph (5A) within the period of three months beginning with the date that the Secretary of State receives notification from the member's employing authority that the member has joined the 2015 Scheme.

(**11**) 1998 c.39. In section 1(3), "prescribed" is defined in section 55 of that Act.
(**12**) This regulation was inserted by regulation 13 of S.I. 2015/96.

(5C) In accordance with paragraph (5D), a member who has received a notice in accordance with paragraph (5A) may request the Secretary of State to provide a statement of entitlement.

(5D) For the purposes of paragraph (5C), a request for a statement of entitlement must—

(a) be made by the member in writing on the form provided by the Secretary of State for that purpose;

(b) be received by the Secretary of State before the end of the three month period beginning with the date of the notice under paragraph (5A).".

(3) For paragraph (6), substitute—

"(6) The Secretary of State must provide a member who has requested a statement of entitlement in accordance with paragraph (5D) with a statement of entitlement at the guarantee date.".

(4) For sub-paragraph (a) of paragraph (9), substitute—

"(a) the period of three months beginning with the date that the Secretary of State receives the member's request for a statement of entitlement in accordance with paragraph (5D); or".

Amendment of regulation T9

7.—(1) Regulation T9 (interest and administration charges: late paid contributions)(**13**) is amended as follows.

(2) In paragraph (1)—

(a) after "contributions" insert "and the scheme administration charge";

(b) in sub-paragraph (a), after "D3," insert "D4,".

(3) In paragraph (2), after "contributions" (three times) insert "or, as the case may be, the scheme administration charge".

(4) In paragraph (3), for "and an administration charge in respect of each such event" substitute "or, as the case may be, the amount of unpaid scheme administration charge or both together with a supplementary charge in respect of each such event.".

(5) In paragraph (4)—

(a) in sub-paragraph (b), after "unpaid contributions" insert "or, as the case may be, unpaid scheme administration charge, or both";

(b) in sub-paragraph (d), for "administration charge" substitute "supplementary charge";

(c) in sub-paragraph (e), for "administration charges" substitute "supplementary charges".

(6) In paragraph (5), for "administration charge" substitute "supplementary charge".

(7) In paragraph (6), for "administration charges" substitute "supplementary charges".

(8) In paragraph (8), for "administration charge" substitute "supplementary charge".

Amendment of Schedule 2

8. In sub-paragraph (17C) of paragraph 10 of Schedule 2 (medical and dental practitioners)(**14**), for "administration charge" substitute "scheme administration charge, and any supplementary charge".

(**13**) This regulation was inserted by regulation 14 of S.I. 2014/570.
(**14**) This sub-paragraph was inserted by regulation 16(1) and (7)(g) of S.I. 2014/570.

Amendment of Schedule 2B

9.—(1) Schedule 2B (independent providers)(**15**) is amended as follows.

(2) For sub-paragraph (a)(ii) of paragraph 14, substitute—

"(ii) who is performing services pursuant to such a contract and who satisfies the wholly or mainly condition; and".

(3) After sub-paragraph (a)(ii) of paragraph 14, insert—

"(iii) who was, within the twelve months preceding the date of entering into employment with the Independent Provider, in an employment in which that employee was entitled to participate in superannuation benefits provided under section 10 of the Superannuation Act 1972 whether or not that employee had actually been a member of this Section of the Scheme pursuant to that entitlement; or".

(4) In paragraph 41—

(a) for "administration charge" substitute "supplementary charge";

(b) for "an administration charge" substitute "a supplementary charge".

(5) In paragraph 42, for "an administration" substitute "a supplementary".

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

General

10. The National Health Service Pension Scheme Regulations 2008(**16**) are amended in accordance with this Part.

Amendment of regulation 1.B.3

11. In paragraph (3B) of regulation 1.B.3 (provision of information relevant for tax purposes)(**17**), for "scheme administrator" substitute "Scheme administrator".

Amendment of regulation 2.A.1

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

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

""the 2014 Act" means the Public Service Pensions Act (Northern Ireland) 2014.(**18**);"

""scheme administration charge" means the charge provided for in regulation 2.C.6A."

(3) In the definition of "NHS standard contract"(**19**)—

(a) for "standard commissioning contract", substitute "terms and conditions";

(b) before "2012", insert "Regulations".

(**15**) Schedule 2B was inserted by regulation 17 of S.I. 2014/570.
(**16**) S.I. 2008/653 as amended by S.I. 2008/2263, S.I. 2009/381, S.I. 2009/1298, S.I. 2009/2446, S.I. 2010/234, S.I. 2010/492, S.I. 2010/1634, S.I. 2011/591, S.I. 2011/2586 (partly with retrospective effect), S.I. 2012/610 (partly with retrospective effect), S.I. 2013/413 (partly with retrospective effect), S.I. 2013/1414, S.I. 2014/78, S.I. 2014/570, S.I. 2014/1607, S.I. 2015/95, S.I. 2015/96, S.I. 2016/211, S.I. 2016/245 and by S.I. 2012/1909.
(**17**) This paragraph was inserted by regulations 17 and 18 of S.I. 2015/96.
(**18**) 2014 c.2.
(**19**) This definition was inserted by regulation 20(b)(ii) of S.I. 2014/570.