STATUTORY INSTRUMENTS

2015 No. 95

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

The National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015

Made - - - -	*5th February 2015*
Laid before Parliament	*12th February 2015*
Coming into force - -	*1st April 2015*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 10(1) and (2) of, and Schedule 3 to, the Superannuation Act 1972(**1**) and sections 1, 3 and 18(5) 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 the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations.

In accordance with section 10(1)(**3**) of the Superannuation Act 1972 and section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury.

PART 1

Introductory

Citation, extent and commencement

1. These Regulations—

(**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).
(**2**) 2013 c.25.
(**3**) The functions of the Minister for the Civil Service under section 10 were transferred to the Treasury by article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(a) may be cited as the National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015;

(b) come into force on 1st April 2015; and

(c) extend to England and Wales.

Interpretation

2. In these Regulations—

"1995 officer transition member" means a person who is an officer transition member by virtue of having pensionable service in the 1995 Section;

"1995 Regulations" means the National Health Service Pension Scheme Regulations 1995(**4**);

"1995 Section" means the section of the National Health Service Pension Scheme for England and Wales set out in the 1995 Regulations;

"2008 officer transition member" means a person who is an officer transition member by virtue of having pensionable service in the 2008 Section;

"2008 Regulations" means the National Health Service Pension Scheme Regulations 2008(**5**);

"2008 Section" means the section of the National Health Service Pension Scheme for England and Wales set out in the 2008 Regulations;

"2013 Act" means the Public Service Pensions Act 2013;

"2015 Regulations" means the National Health Service Pension Scheme Regulations 2015(**6**);

"new scheme" means the scheme set out in the 2015 Regulations;

"NHS employment", in relation to the old scheme and the new scheme has the meaning given in the respective Regulations;

"officer transition member" means a person who is both a member of—

(a) the old scheme by virtue of having pensionable service in that scheme to which paragraphs 1(2)(i) and (ii) or paragraphs 2(2)(i) and (ii) of Schedule 7 (final salary link) to the 2013 Act applies; and

(b) the new scheme by virtue of having pensionable service in that scheme that would have been treated as officer service for the purposes of the old scheme had it been service in the old scheme;

"old scheme" means the National Health Service Pension Scheme for England and Wales, as set out in the 1995 Regulations and the 2008 Regulations;

"practitioner transition member" means a person—

(a) who is both a member of—

(i) the old scheme by virtue of having pensionable service to which schedule 2 to the 1995 Regulations or Part 3 of the 2008 Regulations applies; and

(ii) the new scheme by virtue of having pensionable service in that scheme that would have been treated as practitioner service for the purposes of the old scheme had it been service in the old scheme; and

(**4**) S.I. 1995/300 as amended by S.I. 1997/80 and 1888, 1998/666 and 2216, 2000/605, 2001/1428 and 3649, 2002/561 and 2469, 2003/631 and 2322, 2004/665 and 696, 2005/661 and 3074, 2006/600 and 2919, 2007/2054 and 3280, 2008/654 and 2263, 2009/381, 1298 and 2466, 2010/492 and 1634, 2011/591 and 2586, 2012/610, 2013/413, 2014/78, 570, 1607 and 3061 and as modified by S.I. 1996/971.

(**5**) S.I. 2008/653, as amended by S.I. 2008/2263, 2009/381, 1298 and 2446, 2010/492 and 1634, 2011/591 and 2586, 2012/610, 2013/413, 2014/78, 570 and 1607.

(**6**) S.I. 2015/94.

(b) whose pensionable service for the old scheme and pensionable service for the new scheme are continuous, where—

(i) paragraphs 3 and 4 of Schedule 7 to the 2013 Act (continuity of employment etc.) apply as they apply for the purposes of paragraphs 1(2) and 2(2) of that Schedule; and

(ii) the person's pensionable service for the old scheme and pensionable service for the new scheme are not continuous if scheme regulations made pursuant to section 8A(4)(b) of the Pensions (Increase) Act 1971(**7**) (references to "service" : relevant old scheme pension in payment) apply to the person;

"transition member" means a person who is either an officer transition member or a practitioner transition member.

PART 2

Transitional provisions

CHAPTER 1

Eligibility

Eligibility of pensioners

3. Schedule 1 (eligibility of pensioners) has effect.

CHAPTER 2

Notices and elections

Carry-forward of old scheme opt-out

4. Where, on the date a person becomes eligible to join the new scheme, that person has—

(a) opted out of membership of the old scheme pursuant to regulation—

(i) B4 of the 1995 Regulations; or

(ii) 2.B.5 or 3.B.5 of the 2008 Regulations; or

(b) provided their employer with a valid opt-out notice for the purposes of regulations 9 or 15 of the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010(**8**) ("the 2010 Regulations"),

that person is to be treated as having also opted out under paragraph 1 of Schedule 4 to the 2015 Regulations or given notice for the purposes of the 2010 Regulations in relation to the new scheme.

Nominations, notices and declarations

5.—(1) Paragraph (2) applies where—

(a) a nomination, notice or declaration of the type specified in column 1 of the table has been accepted in respect of benefits to be paid on the death of a person who is a member of the 1995 Section or the 2008 Section of the old scheme; and

(**7**) 1971 c.56. Section 8A was inserted by paragraph 4 of Schedule 8 to the Public Service Pensions Act 2013 (c.25).
(**8**) S.I 2010/772. Regulation 9 has been amended by S.I. 2013/2556.

(b) on the day that the member becomes an active member of the 2015 Scheme, the member has not revoked that nomination, notice or declaration.

Table

Column 1 *Nomination, notice or declaration in the 1995 Section or 2008 Section*	*Column 2* *Corresponding notice or declaration in the 2015 Scheme*
A nomination made in accordance with regulation F5 of the 1995 Regulations (payment of lump sum) in favour of one or more persons in respect of any lump sum that becomes payable under regulations F1 to F4 of the 1995 Regulations (which deal with lump sum payments on the death of a 1995 Section member in different circumstances).	A notice given in accordance with paragraph 9 (payment of lump sums on death) of Schedule 14 (lump sum on death) to the 2015 Regulations in favour of one or more persons in respect of any lump sums that become payable under regulation 112 of the 2015 Regulations.
A notice given in accordance with regulation 2.E.21 or 3.E.21 of the 2008 Regulations (payment of lump sums or pensions on death) in favour of one or more persons in respect of any lump sums or pensions that become payable under regulation 2.E.16 or 3.E.16 of the 2008 Regulations (which deal with lump sum or pension payments on the death of a 2008 Section member in different circumstances).	
A notice given for the purpose of paragraph (3)(a) of regulation F5 of the 1995 Regulations that the member's surviving partner (within the meaning of that regulation) is not to receive payment of any lump sum that becomes payable under regulations F1 to F4 of the 1995 Regulations.	A notice given in accordance with paragraph 9 (payment of lump sums on death) of Schedule 14 (lump sum on death) to the 2015 Regulations specifying that the member's personal representatives are to receive any lump sum on the death of the member payable under regulation 112 of the 2015 Regulations.
A notice given for the purposes of regulation G14 of the 1995 Regulations (surviving nominated partner's pension) nominating a partner to receive a nominated partner pension).	A declaration made for the purpose of regulation 114 of the 2015 Regulations (surviving nominated partner) for the purposes of entitlement to a surviving nominated partner's pension.
A declaration made for the purpose of regulation 2.E.2 or 3.E.2 of the 2008 Regulations (meaning of "surviving nominated partner") for the purposes of entitlement to a surviving nominated partner's pension.	

(2) Where this paragraph applies, for the purposes of the 2015 Scheme, the nomination, notice or declaration mentioned is to be treated as if it had been accepted by the scheme manager as the corresponding notice or declaration in column 2 of the table in paragraph (1).

(3) The revocation of—

(a) a nomination, notice or declaration of the type specified in column 1 of the table in paragraph (1) will also revoke the corresponding notice or declaration in column 2 of that table without more;

(b) a notice or declaration of the type specified in column 2 of the table in paragraph (1) will also revoke the corresponding nomination, notice or declaration in column 1 of that table without more.

(4) The—

(a) making of a new nomination or declaration, or giving of a new notice, of the type specified in column 1 of the table in paragraph (1) is also to be treated by the scheme manager as the giving of the corresponding notice or making of the corresponding declaration in column 2 of that table without more;

(b) giving of a new a notice or making of a new declaration of the type specified in column 2 of the table in paragraph (1) is also to be treated by the Secretary of State as the making of the corresponding nomination or declaration, or giving of the corresponding notice, of the type specified in column 1 of that table without more.

CHAPTER 3

Membership status and breaks in service

Active member status preservation

6. Unless otherwise provided in these Regulations, a transition member who is an active member of the new scheme is to be treated, for the purposes of the old scheme, as though they continue to be an active member of the old scheme notwithstanding the operation of section 18(1) of the 2013 Act.

Qualifying service

7.—(1) In determining whether a transition member who is in pensionable service under the new scheme qualifies for retirement benefits (other than an ill-health pension) under the old scheme, the member's pensionable service under the old scheme terminates when the member's pensionable service under the new scheme terminates.

(2) Unless a transition member becomes a deferred member of the new scheme, the member does not become—

(a) a member with a preserved pension in the 1995 Section; or

(b) a deferred member of the 2008 Section.

(3) Where a transition member with more than two years of qualifying service opts out of membership of the new scheme pursuant to regulation 15 of the 2015 Regulations, the member becomes—

(a) a member with a preserved pension under the 1995 Section; or

(b) a deferred member of the 2008 Section,

in relation to service in that Section.

(4) Where a transition member has re-entered pensionable service under the new scheme, that member ceases to be—

(a) a member with a preserved pension in the 1995 Section; or

(b) a deferred member of the 2008 Section.

(5) In determining whether a member qualifies for benefits under the old scheme, the period of the member's qualifying service under regulation 22 of the new scheme applies in place of the period calculated pursuant to regulation—