STATUTORY INSTRUMENTS

2002 No. 610

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service Pension Scheme (Additional Voluntary Contributions) Amendment Regulations 2002

Made - - - -	*20th March 2002*
Laid before Parliament	*21st March 2002*
Coming into force	*12th April 2002*

The Secretary of State for Health, in exercise of the powers conferred upon him by section 10(1), (2), (2A) and (3) of, and Schedule 3 to, the Superannuation Act 1972**(a)**, and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to him to be appropriate**(b)**, and with the consent of the Treasury**(c)**, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service Pension Scheme (Additional Voluntary Contributions) Amendment Regulations 2002 and shall come into force on 12th April 2002.

(2) In these Regulations "the AVC Regulations" means the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000**(d)**.

Amendment of the AVC Regulations

2. The AVC Regulations shall be amended in accordance with regulations 3 to 6.

Amendment of regulation 2

3. In paragraph (1) of regulation 2 (interpretation)**(e)**—

(a) after the definition of "normal benefit age"**(f)** there shall be inserted the following definition—

""occupational pension scheme" has the meaning given by section 1 of the Pension Schemes Act 1993**(g)**;"; and

(b) in the definition of "personal pension scheme" for "and" there shall be substituted "of".

(a) 1972 c.11; subsection (1)(a) of section 10 was amended by the National Health Service Reorganisation Act 1973 (c.32), Schedule 5; subsection (1) was amended, and subsection (2A) was inserted, by the Pensions (Miscellaneous Provisions) Act 1990 (c.7), sections 4(2) and 8(5).
(b) *See* section 10(4) of the Superannuation Act 1972.
(c) *See* section 10(1) of the Superannuation Act 1972, and article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).
(d) S.I. 2000/619 as amended by S.I. 2001/1428 and 2001/3649.
(e) Regulation 2 was amended by S.I. 2001/1428.
(f) The definition of "normal benefit age" was inserted by S.I. 2001/1428.
(g) 1993 c.48.

Amendment of regulation 6

4. In regulation 6 (circumstances in which elections cease to have effect)—

(a) for "An" there shall be substituted "—(1) Subject to paragraph (2), an"; and

(b) after the end of sub-paragraph (d) there shall be inserted the following paragraph—

"(2) Where paragraph (1)(a) or (b) above applies, an election shall be treated as not having ceased to have effect if a contributor gives written notice to the Secretary of State for the purpose specified in regulation 5(1)(c).".

Substitution of regulation 10

5. For regulation 10 (outward transfers) there shall be substituted the following regulation—

"**Outward transfers**

10.—(1) Subject to paragraphs (4) to (7), the Secretary of State shall as soon as is reasonably practicable after having received a notice in writing from an eligible person requesting a transfer of the value of that person's investments made in relation to that person under regulation 7(1), 8(2) or, as the case may be, 9(4) pay a transfer value representing the value of all such investments at that person's option—

(a) where that person has left pensionable employment, to one of the schemes specified in paragraph (2) in which that person may be participating; or

(b) where that person remains in pensionable employment, to the scheme specified in paragraph (3).

(2) The schemes specified in this paragraph are—

(a) an approved scheme which provides additional benefits by virtue of additional voluntary contributions but does not fall within section 591(2)(h) of the Taxes Act (discretionary approval);

(b) a personal pension scheme, including a personal pension scheme which is a stakeholder pension scheme under Part I of the Welfare Reform and Pensions Act 1999**(a)** (stakeholder pension schemes);

(c) an occupational pension scheme which is a stakeholder pension scheme under Part I of the Welfare Reform and Pensions Act 1999; and

(d) any other arrangement which has been approved by the Board of Inland Revenue to accept transfer payments, provided that the transfer value shall not be used to purchase benefits in the form of a tax free lump sum.

(3) The scheme specified in this paragraph is a free-standing additional voluntary contributions scheme.

(4) Where the Secretary of State is required under paragraph (1) above to make a transfer payment in circumstances where a transfer payment in respect of an eligible person is also provided and used in accordance with regulation M1 of the Pension Scheme Regulations (member's right to transfer or buy-out) he shall do so in accordance with the time limits specified in regulation M4 of the Pension Scheme Regulations (time limit for doing what the member requires), as if any reference in that regulation to an application were a reference to the notice referred to in paragraph (1) above.

(5) In any case where the Secretary of State has directed under regulation 20 (loss of rights to benefit) that all or part of any of an eligible person's rights to benefit under these Regulations are to be forfeited the cash equivalent payable in respect of that person shall be reduced by the capitalised value of the rights which are to be forfeited.

(6) If disciplinary or court proceedings are commenced against the eligible person within 12 months after he leaves pensionable service and it appears to the Secretary of State that the proceedings may lead to all or part of that persons's rights to benefits being forfeited in accordance with regulation 20, the Secretary of State may defer doing what is needed to

(a) 1999 c.30.

carry out what that person requires until the date 3 months after the conclusion of those proceedings (including any proceedings on appeal) where that date is later than the date which would otherwise apply by virtue of paragraph (4) above.

(7) Where the Secretary of State has done what is needed to carry out what the eligible person requires under this regulation, the Secretary of State shall be discharged from any obligation under regulation 15 (payments by the Secretary of State) to or in respect of that person.

(8) In this regulation "eligible person" means a person—

(a) who is a contributor; and

(b) either—

(i) who has not attained the age of 60 years on or before the date the notice referred to in paragraph (1) above is received by the Secretary of State; or

(ii) to whom regulation M6 of the Pension Scheme Regulations**(a)** (special terms for transfers out (bulk transfers etc.)) applies.".

Amendment of Schedule 1

6. In paragraph 13 of Schedule 1 (limit on retirement pension in cases of retirement over 60)—

(a) after "K" where is first occurs, there shall be inserted ", KK";

(b) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

"(bb) KK is an amount calculated in accordance with paragraph 12 as at the participator's 60th birthday, increased up to the date of his retirement by such an amount as the Government Actuary advises is appropriate having regard to the period of postponement of payment of the participator's pension after his 60th birthday.".

Signed by authority of the Secretary of State for Health.

John Hutton
Minister of State,
Department of Health

19th March 2002

We consent to the making of these Regulations.

Nick Ainger
Tony McNulty
Two of the Lords Commissioners of
Her Majesty's Treasury

20th March 2002

(a) Regulation M6 is amended by S.I. 2002/561.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 ("the AVC Regulations") which provide for the payment of additional voluntary contributions by persons who are members of the pension scheme constituted by the National Health Service Pension Scheme Regulations 1995 ("the Pension Scheme Regulations"), or by their employers, in order to secure additional benefits financed by investment of those contributions.

Regulation 1 provides for citation, commencement and interpretation.

Regulations 2 to 6 amend the AVC Regulations.

Regulation 3 inserts a new definition into regulation 2 of the AVC Regulations (interpretation).

Regulation 4 amends regulation 6 of the AVC Regulations (circumstances in which elections cease to have effect) to provide that an election shall be treated as not having ceased to have effect in circumstances where a contributor is in receipt of pension benefits under the Pension Scheme Regulations, or where he has left pensionable employment and he wishes to switch his AVC investments or future contributions to another authorised fund.

Regulation 5 substitutes a new regulation 10 of the AVC Regulations (outward transfers) to provide that certain persons making contributions under those Regulations may transfer the value of investments made under those Regulations to another form of pension arrangement, including a free-standing additional voluntary contributions scheme, without having also to transfer the value of their rights held in the NHS pension scheme.

Regulation 6 amends paragraph 13 of Schedule 1 to the AVC Regulations so as to raise the limit for retirement pensions in cases where the member retires after the age of 60 and is entitled to a greater pension because of its postponement.

These Regulations do not impose any costs on business.

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