STATUTORY INSTRUMENTS

2010 No. 492

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions (Amendment) Regulations 2010

Made - - - -	*25th February 2010*
Laid before Parliament	*4th March 2010*
Coming into force - -	*1st April 2010*

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), 12(1), (2) and (4) of, and Schedule 3 to, the Superannuation Act 1972(**a**).

In accordance with section 10(4) of that Act, the Secretary of State has consulted with 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, Injury Benefits and Additional Voluntary Contributions (Amendment) Regulations 2010.

(2) These Regulations come into force on 1st April 2010 and, save as provided in paragraphs (3) and (4), have effect from that date.

(3) The following regulations have effect from 1st April 2008—

(a) regulation 4(2)(f) in respect of the addition of sub-paragraphs (o) to (q) in regulation B2(1) of the National Health Service Pension Scheme Regulations 1995(**b**);

(b) regulation 19 in respect of the addition of sub-paragraphs (i) and (j) in regulation 2.B.1(5) of the National Health Service Pension Scheme Regulations 2008(**c**);

(**a**) 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). Section 12(2) was amended by section 10(1) of the Pensions (Miscellaneous Provisions) Act 1990. As to Treasury consent, 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).

(**b**) S.I. 1995/300.

(**c**) S.I. 2008/653.

(c) regulation 38 in respect of the addition of sub-paragraphs (i) and (j) in regulation 3.B.1(5) of the National Health Service Pension Scheme Regulations 2008.

(4) The following regulations have effect from 1st October 2009—

(a) regulation 33;

(b) regulation 34;

(c) regulation 50;

(d) regulation 51.

PART 2

Amendment of the National Health Service Pension Scheme Regulations 1995

Part 2: General

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

Amendment of regulation A2

3. In regulation A2 (interpretation)—

(a) in the definition of "GMS practice"—

(i) in paragraph (a), after "registered medical practitioner" insert "who is a type 1 medical practitioner",

(ii) in paragraph (b), after "or more" insert "such";

(b) in the definition of "host Trust or Board"—

(i) in paragraph (a), for "the Primary Care Trust" substitute "each Primary Care Trust",

(ii) for paragraph (b), substitute—

"(b) in respect of a type 1 medical practitioner, means each Primary Care Trust or Local Health Board with whom the practitioner has contracted, or entered into an agreement, to provide GMS, PMS or APMS and, where appropriate, on whose medical performers list the practitioner's name appears;";

(c) in the definition of "ophthalmic provider", after "who" insert "is a type 1 medical practitioner and who";

(d) in the definition of "practitioner", at the end of paragraph (b) add—

"or

(c) an ophthalmic provider;";

(e) at the appropriate place in the alphabetical order, insert—

""registered medical practitioner" has the meaning given in section 55 of the Medical Act 1983(**b**);

"Waiting Period Joiner" has the meaning given in regulation 2.L.1, or as the case may be, 3.L.1 of the 2008 Section.".

Amendment of regulation B2

4.—(1) Regulation B2 (restrictions on membership) is amended as follows.

(2) In paragraph (1)—

(**a**) 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 and 2009/381,1298 and 2466 and as modified by S.I. 1996/971.

(**b**) 1983 c.54.

(a) for sub-paragraph (f), substitute—

"(f) that person enters NHS employment for the first time on, or after, 1st April 2008 and has not previously been a member of this Section of the Scheme or a health service scheme corresponding to this Section;";

(b) in sub-paragraph (g)—

(i) after "returns to", insert "or commences";

(ii) after "last left", insert "pensionable";

(c) in sub-paragraph (h)(ii) after "returning to", insert "or commencing";

(d) for sub-paragraph (j)(iii), substitute—

"(iii) returns to, or commences for the first time, NHS employment on or after 1st October 2008 and, before that employment starts (whether it is employment that has been returned to or commenced for the first time), exercises the member's right to transfer out all of that person's benefits in accordance with regulation M1,";

(e) in sub-paragraph (k)(ii), after "returns to" insert "or commences";

(f) after sub-paragraph (k), add—

"(l) that person's pension under a health service scheme is payable and in the opinion of the Secretary of State that person would not be eligible to—

(i) join this Section of the Scheme, or

(ii) where appropriate, accrue further pensionable service under this Section of the Scheme,

if the pensionable employment to which that health service scheme applied, and in respect of which that pension is being paid, had been pensionable employment in this Section of the Scheme;

(m) that person is a person who—

(i) is entitled to a preserved pension in accordance with regulation L1,

(ii) has given notice in accordance with paragraph (1) or (1A) of regulation B4 that the person does not wish to, or no longer wishes to, participate in this Section of the Scheme,

(iii) as a result of that notice, has been treated as having left all pensionable employments, and

(iv) pursuant to that notice remains opted-out of this Section of the Scheme for any one period of five years or more beginning on the date that notice takes effect;

(n) that person is a person who—

(i) is entitled to a preserved pension in accordance with regulation L1,

(ii) has given notice in accordance with paragraph (1) or (1A) of regulation B4 that the person does not wish to, or no longer wishes to, participate in this Section of the Scheme,

(iii) following that notice, has had a break in pensionable employment for any one period of five years or more, comprising the aggregate of—

(aa) any period during which the person leaves NHS employment, and

(bb) any period during which the person is treated as never having been included in this Section of the Scheme in accordance with paragraph (3) of regulation B4 in respect of one or more later periods of NHS employment entered into after having given the notice referred to in (ii);

(o) that person is a person who—

(i) enters NHS employment before 1st April 2008,

(ii) has given notice in respect of that employment (and all other such employments with an employing authority) that that person does not wish to participate in the Scheme in accordance with paragraph (1) or (1A) of regulation B4, and

(iii) as a result of that notice on 1st April 2008 is treated as never having been in pensionable employment with any employing authority in accordance with paragraph (3) of regulation B4;

(p) that person is a person who—

(i) enters NHS employment before 1st April 2008,

(ii) has given notice in respect of that employment (and all other such employments with an employing authority) that that person does not wish to, or no longer wishes to, participate in the Scheme in accordance with paragraph (1) or (1A) of regulation B4,

(iii) as a result of that notice has been treated as having left pensionable employment with all employing authorities for a period of 12 months or more, and

(iv) is not entitled to a preserved pension in accordance with regulation L1;

(q) that person is a person who—

(i) enters pensionable employment before 1st April 2008,

(ii) has given notice in respect of that employment (and all other such employments with an employing authority) that that person does not wish to, or no longer wishes to, participate in the Scheme in accordance with paragraph (1) or (1A) of regulation B4,

(iii) is not entitled to a preserved pension in accordance with regulation L1, and

(iii) has, in respect of that pensionable employment, either received a repayment of contributions or exercised the right to a transfer payment under Part M.".

(3) In paragraph (2)(c), for "regulations L1, L2," substitute "regulations E2, E2A, L1, L2, L4,".

Amendment of regulation E2B

5. For paragraph (2)(e) of regulation E2B (re-assessment of ill-health condition determined under regulation E2A), substitute—

"(e) the member is not—

(i) a 2008 Section Optant within the meaning of regulation 2.K.1 or 3.K.1 of the 2008 Section of the Scheme, or

(ii) a Waiting Period Joiner within the meaning of regulation 2.L.1 or 3.L.1 of the 2008 Section of the Scheme,

who has become entitled to a tier 2 ill-health pension under regulation 2.D.8 or 3.D.7 of that Section.".

Amendment of regulation E5

6. In paragraph (2) of regulation E5 (early retirement pension (with actuarial reduction)), for "but" substitute "and, except for any pension in respect of service calculated as a result of exercising the right to buy additional service under regulation Q1 or the right to buy an unreduced retirement lump sum under regulation Q2,".

Amendment of regulation E6

7. In paragraph (7)(b) of regulation E6 (lump sum on retirement), after "will" insert ", except for any lump sum in respect of service calculated as a result of exercising the right to buy additional

service under regulation Q1 or the right to buy an unreduced retirement lump sum under regulation Q2,".

Amendment of regulation F5

8. After paragraph (12) of regulation F5 (payment of lump sum), add—

"(13) In the case of a Waiting Period Joiner, a notice given by a member for the purposes of regulation 2.E.21 or 3.E.21 of the 2008 Section of the Scheme shall be treated as a nomination or notice given by the member for the purposes of this regulation.".

Amendment of regulation G3

9. For paragraph (3)(a) of regulation G3 (member dies after pension becomes payable), substitute—

"(a) the member is—

(i) a 2008 Section Optant within the meaning of regulation 2.K.1 or regulation 3.K.1 of the 2008 Section of the Scheme, or

(ii) a Waiting Period Joiner within the meaning of regulation 2.L.1 or 3.L.1 of that Section, and".

Amendment of regulation G14

10. After paragraph (9) of regulation G14 (surviving nominated partner's pension), add—

"(10) In the case of a Waiting Period Joiner, a declaration or notice given by a member for the purposes of regulation 2.E.2 or 3.E.2 of the 2008 Section of the Scheme shall be treated as a declaration or notice given by that member for the purposes of this regulation.".

Amendment of regulation H4

11. In paragraph (2) of regulation H4 (member dies after pension becomes payable)—

(a) in sub-paragraph (b)(i), after "regulation 3.K.1" insert "or a Waiting Period Joiner within the meaning of regulation 2.L.1 or 3.L.1";

(b) in sub-paragraph (b)(ii), after "2008 Section Optant" insert "or Waiting Period Joiner".

Amendment of regulation M7

12. In paragraph (3)(b) of regulation M7 (member's right to transfer a preserved pension to the 2008 Section), after "B2(1)(k)" insert "or B2(1)(m) or (n)".

Amendment of regulation Q7

13. For paragraph (6) of regulation Q7 (part payment for additional service or unreduced retirement sum), substitute—

"(6) If the member becomes entitled to receive benefits before the chosen date under regulation Q6(3), the proportion of additional service or unreduced retirement lump sum to be credited to the member will be—

(a) calculated as described in paragraph (5), and

(b) then reduced by reason of the early payment of the pension and the lump sum by such amounts as the Secretary of State, after taking the advice of the Scheme Actuary, shall determine.".

Substitution of regulation Q17

14. For regulation Q17 (revaluation of increases bought under options: members' pensions), substitute—

"**Revaluation of increases bought under options: members' pensions**

Q17.—(1) Where an option under regulation Q8, Q10 or Q11 has been exercised, the final amount of the increase in a member's pension immediately before the beginning date for that pension shall be determined in accordance with this regulation.

(2) Where the increase in pension is in respect of an option that was exercised less than 2 months before the increase becomes payable, the final amount is calculated in accordance with paragraph (4).

(3) Where the increase in pension is in respect of an option that was exercised 2 or more months before the increase in pension becomes payable, the final amount is calculated in accordance with paragraph (5).

(4) The calculation referred to in paragraph (2) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations Q14 to Q16, to find the Step 1 amount.

Step 2 – Add to the Step 1 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971(**a**) on a pension of the same amount as the Step 1 amount when it first falls into payment, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the Step 1 amount, to find the Step 3 factor.

Step 4 – Divide the Step 1 amount by the Step 3 factor to find the final amount referred to in paragraph (1).

(5) The calculation referred to in paragraph (3) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations Q14 to Q16, to find the Step 1 amount.

Step 2 – Multiply the Step 1 amount by the retail prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the retail prices index for the month in which the option was exercised, to find the Step 3 amount.

Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.

Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.

Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.

Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).

(6) In this regulation, "the beginning date", in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act 1971 (see section 8(2) of that Act).".

(**a**) 1971 c.56.

Amendment of Schedule 2

15.—(1) Schedule 2 (Medical and Dental Practitioners) is amended as follows.

(2) For sub-paragraph (1) of paragraph 5A (distribution of pensionable earnings between type 1 dental practitioners employed or engaged by the same GDS or PDS contractor), substitute—

"(1) After the end of each financial year, each GDS or PDS contractor must by a date to be decided by the Secretary of State, send to the employing authority with which that contractor is a party to a GDS contract or PDS agreement a notice (in the format specified by the Secretary of State), specifying in respect of that financial year—

(a) the pensionable earnings ceiling for that contract or agreement;

(b) the amount of any monthly seniority payments, maternity leave payments, paternity leave payments, adoption leave payments, parental leave payments or sickness leave payments paid under that contract or agreement;

(c) how much of the practitioner income that relates to that contract or agreement each type 1 dental practitioner that performed services under that contract or agreement is to be treated as having earned during that financial year, and

(d) any partners, shareholders or directors of that contractor.".

(3) In paragraph 10(8)(b) (contributions to this Section of the Scheme), after "shall pay" insert "D2(1)".

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

Part 3: General

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

Amendment of regulation 2.A.1

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

(a) in the definition of "GMS practice"—

(i) in paragraph (a), after "registered medical practitioner" insert "who is a type 1 medical practitioner",

(ii) in paragraph (b), after "or more" insert "such";

(b) in the definition of "host Trust or Board", for "registered medical practitioner" (twice) substitute "type 1 medical practitioner";

(c) after paragraph (b) of the definition of "practitioner", add—

"or

(c) an ophthalmic provider";

(d) at the appropriate place in the alphabetical order, insert—

""GOS contract" means a contract under section 117 of the 2006 Act (general ophthalmic services contracts) for the provision of mandatory services and additional services as defined in regulation 2(1) of the General Ophthalmic Services Contracts Regulations 2008(**b**);

"GP provider" has the meaning given in regulation 3.A.1;

(**a**) S.I. 2008/653. The relevant amending instrument is S.I. 2009/2446.
(**b**) S.I. 2008/1185.

"ophthalmic provider" means a registered medical practitioner who is a type 1 medical practitioner and who—

(a) as regards England—

(i) is included in an ophthalmic performers list prepared and published by a Primary Care Trust pursuant to regulation 3(1) of the National Health Service (Performers Lists) Regulations 2004(**a**) (performers lists); and

(ii) holds a GOS contract; and

(b) as regards Wales, is included in an ophthalmic list kept and published by a Local Health Board pursuant to regulation 6(1) of the National Health Service (General Ophthalmic Services) Regulations 1986(**b**) (ophthalmic list);

"registered medical practitioner" has the meaning given in section 55 of the Medical Act 1983(**c**);

"Waiting Period Joiner" has the meaning given in regulation 2.L.1;".

Amendment of regulation 2.A.10

18. For paragraph (3) of regulation 2.A.10 (meaning of "reckonable pay": general), substitute—

"(3) A member's "reckonable pay" is determined by the formula—

$$IRP\,x\left(RPa\,/\,RPi\right)$$

Where—

IRP is the interim reckonable pay determined in paragraph (4), (6) or (7), as appropriate, before any adjustment for inflation in accordance with regulation 2.A.11,

RPa is the annual rate of retirement pension the member would be entitled to if the reckonable pay used to calculate it was the interim reckonable pay, including any adjustment for inflation described in regulation 2.A.11, and

RPi is the annual rate of retirement pension the member would be entitled to if the reckonable pay used to calculate it was the interim reckonable pay, excluding any adjustment for inflation described in regulation 2.A.11, but instead including any increases that pay would attract if it was the annual rate of an official pension within the meaning of section 5(1) of the Pensions (Increase) Act 1971.".

Amendment of regulation 2.B.1

19. After paragraph (5)(f) of regulation 2.B.1 (eligibility: general), add—

"(g) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation B4 of the 1995 Regulations (opting out of the Scheme) and—

(i) as a result of that notice has been treated as ceasing to be an active member of that Section, and

(ii) pursuant to that notice remains opted-out of that Section for 5 years or more;

(h) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation B4 of the 1995 Regulations (opting out of the Scheme) and following that notice, has ceased to be an active member of that Section for any one period of five or more years comprising the aggregate of—

(i) any period during which the person leaves NHS employment, and

(**a**) S.I. 2004/585.
(**b**) S.I. 1986/975 and 2263 and 2009/381, 1298 and 2446.
(**c**) 1983 c.54.

(ii) any period during which the person is treated as never having been an active member of that Section in accordance with paragraph (3) of regulation B4 of those Regulations in respect of one or more later periods of NHS employment entered into after having given the notice for the purposes of paragraph (1) or (1A) of that regulation;

(i) the person—

(i) has given notice for the purposes of regulation B4 of the 1995 Regulations (opting-out of the scheme) and as a result of that notice all of that person's NHS employments ceased to be pensionable employment for the purposes of those Regulations,

(ii) is not entitled to a pension (including a deferred pension) under those Regulations, and

(iii) has been treated as ceasing to be in pensionable employment under the 1995 Regulations for a period of 12 months or more;

(j) the person—

(i) has given notice for the purposes of regulation B4 of the 1995 Regulations (opting-out of the scheme) and as a result of that notice all of that person's NHS employments ceased to be pensionable employment for the purposes of those Regulations,

(ii) is not entitled to a pension (including a deferred pension) under those Regulations, and

(iii) has, in respect of the NHS employments referred to in (i), either received a repayment of contributions or exercised the right to a transfer payment under Part M of those Regulations,".

Substitution of regulation 2.B.1A

20. For regulation 2.B.1A (eligibility: transitional), substitute—

"**2.B.1A Eligibility: transitional**

(1) A person is eligible to be an active member of this Section of the Scheme if—

(a) the person is not prevented from being so by regulation 2.B.2, 2.B.3 or 2.B.6, and

(b) either—

(i) the Secretary of State has accepted that person's option to join this Section of Scheme under Chapter 2.K, or

(ii) that person meets all of the requirements in paragraph (2).

(2) Those requirements are that the person—

(a) is under age 75,

(b) was an active member of the 1995 Section on, or after, 1st April 2008,

(c) became a pensioner member of the 1995 Section on, or before, 1st October 2009,

(d) has either—

(i) returned to NHS employment since becoming a pensioner member referred to in (c), or

(ii) commenced for the first time NHS employment, and

(e) is not eligible to be an active member of the 1995 Section in respect of the employment referred to in (d).

This is subject to the following paragraphs of this regulation.

(3) A person referred to in paragraph (2) is eligible to be an active member of this Section of the Scheme, from the day immediately following the end of Waiting Period A, if that

person is entitled to a pension under one of the following regulations of the 1995 Regulations—

(a) E1 (normal retirement pension),

(b) E2A(3)(a) (tier 1 ill-health pension on early retirement),

(c) E3A (early retirement pension (termination of employment by employing authority)), or

(d) E5 (early retirement pension (with actuarial reduction)).

(4) A person referred to in paragraph (2) shall be eligible to be an active member of this Section of the Scheme, from the day immediately following the longer of Waiting Period A and Waiting Period B, if that person is entitled to a pension under one of the following regulations of the 1995 Regulations—

(a) E2 (early retirement pension (ill health)),

(b) E3 (early retirement pension (redundancy etc additional provisions)).

(5) If a person referred to in paragraph (2) is entitled to a pension under regulation E2A(3)(b) (tier 2 ill-health pension on early retirement), that person shall be eligible to be an active member of this Section of the Scheme from the day immediately following whichever of the following occurs last—

(a) the anniversary of that person entering NHS employment, or

(b) the end of Waiting Period A.

(6) A person to whom paragraph (1)(b)(i) or (3)(b) applies and who is entitled to a tier 1 ill-health pension under regulation E2A(3)(a) of the 1995 Regulations, ceases to be eligible to be an active member of this Section of the Scheme from the date the Secretary of State makes a determination that that person is entitled to a tier 2 ill-health pension in place of that tier 1 ill-health pension under regulation E2B(3) of those Regulations (re-assessment of ill-health condition determined under regulation E2A).

(7) For the purposes of this regulation—

(a) "Waiting Period A" is a period of two calendar years beginning on the day the person becomes entitled to the pension under the 1995 Regulations;

(b) "Waiting Period B" is a period beginning on the day the person becomes entitled to the pension under the 1995 Regulations which is equal to the calendar length of—

(i) any increase to the person's pensionable service in the 1995 Section which has been applied in accordance with paragraph (3) of regulation E2 of the 1995 Regulations (early retirement pension (ill-health)), or

(ii) any additional service with which the person has been credited in accordance with regulation 5 of the National Health Service (Compensation for Premature Retirement) Regulations 2002(**a**).

(8) This regulation applies to any person who has previously been an active member of a corresponding 1995 scheme as though any reference to—

(a) the "1995 Section" includes a reference to that corresponding 1995 scheme;

(b) the "1995 Regulations" includes a reference to any regulations, orders, rules or other instruments governing that corresponding 1995 scheme;

(c) regulations "E1", "E2", "E2A", "E2B(3)", "E3", "E3A", "E3A(3)(a)", "E3A(3)(b)" or "E5" includes the equivalent of those regulations in a health service scheme the provisions of which correspond to the 1995 Regulations, and

(d) "regulation 5 of the National Health Service (Compensation for Premature Retirement) Regulations 2002" includes the equivalent of that regulation as it applies to a member of a corresponding 1995 scheme.".

(**a**) S.I. 2002/1311.

Amendment of regulation 2.B.2

21. For paragraph (2) of regulation 2.B.2 (restrictions on eligibility: general), substitute—

"(2) A person is not eligible to be an active member of this Section of the Scheme if the person—

(a) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or before, 1st April 2008 (except if paragraph (1)(b)(i) of regulation 2.B.1A applies to that person), or

(b) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or after, that date (except if paragraph (1)(b)(i) or (ii) of regulation 2.B.1A applies to that person), or

(c) is a deferred member of the 1995 Section or a corresponding 1995 scheme, but is not a deferred member—

(i) to whom regulation 2.B.1(5)(e), (f), (g) or (h) applies, and

(ii) in respect of whom permission of the Secretary of State to rejoin the 1995 Section has not been granted pursuant to regulation B2(3) of that Section (restrictions on membership).".

Amendment of regulation 2.C.5

22. In regulation 2.C.5 (contributions by employing authorities: general), in—

(a) paragraph (7), for "C5 contributions" substitute "contributions under this regulation";

(b) paragraph (8), for "C5 contributions" substitute "contributions under this regulation".

Amendment to regulation 2.C.6

23. In regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11)—

(a) for paragraph (1)(a), substitute—

"(a) the cost of providing the pension under that regulation for the period between the member leaving the employment in which the member was an active member and reaching age 65—

(i) before any part of that pension is exchanged for a lump sum under regulation 2.D.14, and

(ii) in the case of a 2008 Section Optant, after that pension is reduced in accordance with regulation 2.K.12;";

(b) after paragraph (1)(b), add—

"; and

(c) in the case of a 2008 Section Optant, the additional cost attributable to the early payment of the lump sum to be paid to such an Optant under regulation 2.K.12.".

Substitution of regulation 2.C.17

24. For regulation 2.C.17 (revaluation of increases bought under options: members' pensions), substitute—

"**2.C.17 Revaluation of increases bought under options: members' pensions**

(1) Where an option under regulation 2.C.8, 2.C.10 or 2.C.11 has been exercised, the final amount of the increase in a member's pension immediately before the beginning date for that pension shall be determined in accordance with this regulation.

(2) Where the increase in pension is in respect of an option that was exercised less than 2 months before the increase becomes payable, the final amount is calculated in accordance with paragraph (4).

(3) Where the increase in pension is in respect of an option that was exercised 2 or more months before the increase in pension becomes payable, the final amount is calculated in accordance with paragraph (5).

(4) The calculation referred to in paragraph (2) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 2.C.14 to 2.C.16, to find the Step 1 amount.

Step 2 – Add to the Step 1 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971(**a**) on a pension of the same amount as the Step 1 amount when it first falls into payment, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the Step 1 amount, to find the Step 3 factor.

Step 4 – Divide the Step 1 amount by the Step 3 factor to find the final amount referred to in paragraph (1).

(5) The calculation referred to in paragraph (3) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 2.C.14 to 2.C.16, to find the Step 1 amount.

Step 2 – Multiply the Step 1 amount by the retail prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the retail prices index for the month in which the option was exercised, to find the Step 3 amount.

Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.

Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.

Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.

Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).

(6) In this regulation, "the beginning date", in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act 1971 (see section 8(2) of that Act).".

Amendment of regulation 2.D.8

25. After paragraph (18) of regulation 2.D.8 (early retirement on ill-health (active members and non-contributing members)), insert—

"(19) In the case of a Waiting Period Joiner, this regulation is subject to regulation 2.L.3."

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Amendment of regulation 2.E.2

26. After paragraph (3) of regulation 2.E.2 (meaning of "surviving nominated partner"), insert—

"(4) In the case of a Waiting Period Joiner, this regulation is subject to regulation 2.L.2.".

(**a**) 1971 c.56.

Amendment of regulation 2.E.10

27. In paragraph (4) of regulation 2.E.10 (amount of children's pension under regulation 2.E.8: deceased active members and deceased non-contributing members), after "2.K.24" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 2.L.5".

Amendment of regulation 2.E.11

28. In paragraph (3) of regulation 2.E.11 (amount of children's pension under regulation 2.E.8: deceased pensioner members), after "2.K.24" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 2.L.5".

Amendment of regulation 2.E.12

29. In paragraph (3) of regulation 2.E.12 (amount of children's pension under regulation 2.E.8: deceased deferred members), after "2.K.24" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 2.L.5".

Amendment of regulation 2.E.17

30. In paragraph (1) of regulation 2.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 2.D.5 employments)), after "2.K.23" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 2.L.4".

Amendment of regulation 2.E.21

31. After paragraph (13) of regulation 2.E.21 (payment of lump sums or pensions on death), insert—

"(14) In the case of a Waiting Period Joiner, this regulation is subject to regulation 2.L.2."

.

Amendment of regulation 2.H.4

32. For paragraph (6) of regulation 2.H.4 (meaning of "relevant income"), substitute—

"(6) The resulting reduction in the pension is taken into account for the purposes of this regulation if the employed pensioner—

(a) exercised the option under regulation 2.D.18 in relation to the old service pension, or

(b) is a 2008 Section Optant who was entitled to a lump sum under regulation 2.K.12 in relation to the old service pension.".

Amendment of regulation 2.K.1

33. After paragraph (1)(b) of regulation 2.K.1 (application of Chapter 2.K), add—

"(c) both—

(i) became entitled to a pension under regulation E3 or E3A of the 1995 Regulations (which deal with an early retirement pension on the grounds of redundancy and an early retirement pension on termination of employment by employing authority, respectively) on leaving employment with one employing authority, and

(ii) elected to continue to be an active member of the 1995 Section in respect of any other continuing pensionable employment in accordance with paragraph (6) of regulation R4 of those Regulations (members doing more than one job).

".

Amendment of regulation 2.K.2

34. In regulation 2.K.2 (options for 1995 Section members to join this Section of the Scheme under Chapter 2.K)—

(a) in paragraph (9), after "1995 Section if" insert "either paragraph (9A) applies to that person or that person satisfies all of the following";

(b) after paragraph (9), add—

"(9A) This paragraph applies to a person who—

(a) has ceased to pay contributions in accordance with paragraph (3) or paragraph (4) of regulation D1 of the 1995 Regulations (contributions by members),

(b) is continuing in NHS employment, and

(c) exercises the option before the end of the four month period beginning with the comparative statement issue date.";

(c) in paragraph (13), for "(4) and (9)" substitute "(4), (9) and (9A)".

New Chapter 2.L

35. After Chapter 2.K (2008 Section Optants), insert—

"CHAPTER 2.L

Waiting Period Joiners

2.L.1 Application of Chapter 2.L

(1) This Chapter makes provision in relation to pensioner members of the 1995 Section who are eligible to be members of this Section of the Scheme in accordance with paragraph (1)(b)(ii) of regulation 2.B.1A (eligibility: transitional).

(2) A member of this Section of the Scheme to whom this Chapter applies is referred to as a "Waiting Period Joiner".

2.L.2 Nominations and notices accepted by the Secretary of State under the 1995 Regulations and Chapter 2.E of these Regulations

(1) This regulation applies if—

(a) on the day a Waiting Period Joiner becomes an active member of this Section of the Scheme—

(i) the Secretary of State has accepted any of the nominations or notices specified in paragraph (2) in respect of the benefits to be paid on the death of that Joiner, and

(ii) that Joiner has not revoked that nomination or notice, or

(b) at any time after a Waiting Period Joiner becomes an active member of this Section of the Scheme, that Joiner gives a notice, nomination or declaration for the purposes of a regulation listed in the table in paragraph (4).

(2) The nominations and notices referred to in paragraph (1)(a) are—

(a) 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 those Regulations (which deal with lump sum payments on the death of a member in different circumstances);

(b) a notice provided for the purposes of paragraph (3)(a) of regulation F5 of the 1995 Regulations that the person's surviving partner (within the meaning of that

regulation) is not to receive the payment of any lump sum that becomes payable under regulations F1 to F4 of those Regulations;

(c) a notice provided for the purpose of regulation G14 of the 1995 Regulations (surviving nominated partner's pension) nominating a partner to receive a surviving nominated partner pension.

(3) For the purpose of this Section of the Scheme a nomination or notice referred to in paragraph (1)(a) shall be treated—

(a) in the case of the nomination referred to in paragraph (2)(a), as if that nomination has been accepted by the Secretary of State as a notice for the purposes of regulation 2.E.21,

(b) in the case of a notice referred to in paragraph (2)(b), as if that notice had been accepted by the Secretary of State as a notice for the purposes of regulation 2.E.21 specifying that the Waiting Period Joiner's personal representatives are to receive any lump sum or pension on the death of that Joiner, and

(c) in the case of a notice referred to in paragraph (2)(c), as if that notice had been accepted by the Secretary of State as a declaration for the purposes of regulation 2.E.2.

(4) A notice, nomination or declaration referred to in paragraph (1)(b) that is given by a Waiting Period Joiner for the purposes of a regulation listed in column 1 of the following table shall, without more, be treated as a notice, nomination or declaration given for the purposes of the corresponding regulation in column 2.

Column 1 *1995 Regulations*	*Column 2* *2008 Regulations*
F5	2.E.21
G14	2.E.2

2.L.3 Waiting Period Joiners who are in receipt of a tier 1 ill-health pension under Regulation E2A of the 1995 Regulations

(1) This regulation applies to a Waiting Period Joiner who—

(a) is entitled to a tier 1 ill-health pension under regulation E2A of the 1995 Regulations (ill-health pension on early retirement) in respect of service in the 1995 Section ("the earlier 1995 Section service"), and

(b) becomes entitled to a tier 1 ill-health pension or, as the case may be, a tier 2 ill-health pension under regulation 2.D.8 in respect of service in this Section of the Scheme ("the later 2008 Section service").

(2) For the purposes of determining whether a Waiting Period Joiner can count 45 years of pensionable service for any purpose, the earlier 1995 Section service and the later 2008 Section service are aggregated.

(3) A Waiting Period Joiner is entitled to the benefits set out in paragraph (4) if, on the termination of the later 2008 Section service, that Joiner becomes entitled to a tier 1 or a tier 2 ill-health pension under regulation 2.D.8 in respect of that later service.

(4) Those benefits are—

(a) a tier 1 ill-health pension under regulation E2A of the 1995 Regulations in respect of the member's earlier 1995 Section service, and

(b) a tier 1 or, as the case may be, a tier 2 ill-health pension in respect of the member's later 2008 Section service.

This is subject to paragraph (5).

(5) A Waiting Period Joiner is entitled to the benefits set out in paragraph (6) where that Joiner—

(a) ceases to be entitled to a tier 1 ill-health pension in respect of the earlier 1995 Section service,

(b) becomes entitled to a tier 2 ill-health pension in respect of that earlier 1995 Section service in accordance with regulation E2B of the 1995 Regulations (re-assessment of ill health condition determined under regulation E2A), and

(c) becomes entitled to a tier 1 or, as the case may be, a tier 2 ill-health pension in respect of the later 2008 Section service on the termination of that later service.

(6) Those benefits are—

(a) a tier 2 ill-health pension paid in accordance with regulation E2B of the 1995 Regulations in respect of the earlier 1995 Section service, and

(b) a tier 1 ill-health pension in respect of the later 2008 Section service.

2.L.4 Lump sum payable on the death of a Waiting Period Joiner

(1) This regulation applies to a Waiting Period Joiner who, on the date of that Joiner's death, is an active or a non-contributing member in respect of service in this Section of the Scheme ("the later 2008 Section service").

(2) The lump sum payable on the death of a Joiner referred to in paragraph (1) shall be calculated in accordance with whichever of paragraphs (3) to (6) applies to that Joiner and shall be paid in place of the lump sum that, apart from this regulation, would otherwise be payable in respect of that Joiner's later 2008 Section service under regulation 2.E.17.

(3) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had not reached age 65 and who had not exercised the option under regulation 2.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 2.D.8(5) to which that deceased Joiner would have been entitled at that date, multiplied by five.

(4) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had reached age 65 and who had not exercised the option under regulation 2.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 2.D.1 to which that deceased Joiner would have been entitled at that date, multiplied by five.

(5) Where, at the date of a Waiting Period Joiner's death, that Joiner was a non-contributing member who had not exercised the option under regulation 2.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension to which that Joiner would have been entitled under regulation 2.D.1 on the last day of that Joiner's pensionable service, multiplied by five.

(6) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member or a non-contributing member who had exercised the option under regulation 2.D.5, the lump sum referred to in paragraph (2) shall be determined by the Secretary of State after taking advice from the Scheme actuary.

2.L.5 Children's pensions payable on the death of a Waiting Period Joiner

(1) This regulation applies in respect of a Waiting Period Joiner's service in this Section of the Scheme, where at the date of that Joiner's death that Joiner was an active, non-contributing, pensioner or deferred member who was entitled to a pension under the 1995 Regulations in respect of service in the 1995 Section ("the earlier 1995 Section service").

(2) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death was an active or non-contributing member, "relevant service" for the purposes of paragraph (4) of regulation 2.E.10 shall have the meaning given in paragraph (3) of this regulation.

(3) "Relevant service" means—

(a) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death, an active member the greater of—

(i) the pensionable service that Joiner was entitled to count at that date, increased by the enhancement period (if any) that would have applied for the purposes of regulation 2.D.8(5) if that Joiner had become entitled to a tier 2 ill-health pension at that date, and

(ii) that Joiner's later 2008 Section service as an active member plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service as an active member, and

(bb) 10 years pensionable service,

where the amount of service in (aa) is less than that specified in (bb);

(b) in the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death was a non-contributing member, the pensionable service that Joiner was entitled to count under this Section of the Scheme on the date of that Joiner's death.

(4) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death was a pensioner member, "the basic death pension" for the purposes of paragraph (3) of regulation 2.E.11 shall have the meaning given in paragraph (5) of this regulation.

(5) The "basic death pension" means the greater of—

(a) 75% of the deceased Waiting Period Joiner's annual pension (disregarding any additional pension), and

(b) 75% of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner's later 2008 Section service plus the difference between—

(i) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service, and

(ii) 10 years pensionable service,

where the amount of service in (i) is less than that specified in (ii).

(6) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death was a deferred member, "the basic death pension" for the purposes of paragraph (3) of regulation 2.E.12 shall have the meaning given in paragraph (7) of this regulation.

(7) The "basic death pension" means—

(a) if the deceased Waiting Period Joiner died within 12 months after ceasing to be an active member or a non-contributing member, the amount that would be the basic death pension for the purposes of regulation 2.E.10 if that Joiner had died on the day of so ceasing (disregarding any additional pension), and

(b) if the deceased Waiting Period Joiner died more than 12 months after ceasing to be an active member or a non-contributing member, the greater of—

(i) 75% of the pension to which that Joiner would have been entitled if that Joiner had become entitled to a pension under regulation 2.D.1 on the date of death (disregarding any additional pension), and

(ii) 75% of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner's later 2008 Section service that has been deferred plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service that has been deferred, and

(bb) 10 years pensionable service,

where the amount of service in (aa) is less than that specified in (bb).".

Amendment of regulation 3.A.1

36. In regulation 3.A.1 (interpretation of Part 3: general)—

(a) in the definition of "GMS practice"—

(i) in paragraph (a), after "registered medical practitioner" insert "who is a type 1 medical practitioner",

(ii) in paragraph (b), after "or more" insert "such";

(b) in paragraph (a) of the definition of "host Trust or Board" for "registered medical practitioner" (twice), substitute "type 1 medical practitioner";

(c) in the definition of "ophthalmic provider", after "who" insert "is a type 1 medical practitioner and who";

(d) after paragraph (b) of the definition of "practitioner", add—

"or

(c) an ophthalmic provider";

(e) at the appropriate place in the alphabetical order, insert—

""registered medical practitioner" has the meaning given in section 55 of the Medical Act 1983(**a**);

"Waiting Period Joiner" has the meaning given in regulation 3.L.1.".

Amendment of regulation 3.A.12

37. For paragraph (1) of regulation 3.A.12 (distribution of pensionable earnings between type 1 dental practitioners employed or engaged by the same GDS or PDS contractor), substitute—

"(1) After the end of each financial year, each GDS or PDS contractor must by a date to be decided by the Secretary of State, send to the employing authority with which that contractor is a party to a GDS contract or PDS agreement a notice (in the format specified by the Secretary of State), specifying in respect of that financial year—

(a) the pensionable earnings ceiling for that contract or agreement;

(b) the amount of any monthly seniority payments, maternity leave payments, paternity leave payments, adoption leave payments, parental leave payments or sickness leave payments paid under that contract or agreement;

(c) how much of the practitioner income that relates to that contract or agreement each type 1 dental practitioner that performed services under that contract or agreement is to be treated as having earned during that financial year, and

(d) any partners, shareholders or directors of that contractor.".

Amendment of regulation 3.B.1

38. After paragraph (5)(f) of regulation 3.B.1 (eligibility: general), add—

"(g) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation B4 of the 1995 Regulations (opting out of the Scheme) and—

(i) as a result of that notice has been treated as ceasing to be an active member of that Section, and

(ii) pursuant to that notice remains opted-out of that Section for 5 years or more;

(h) the person is a deferred member of the 1995 Section who has given notice for the purposes of paragraph (1) or (1A) of regulation B4 of the 1995 Regulations (opting out of the Scheme) and following that notice, has ceased to be an active member of

(**a**) 1983 c.54.

that Section for any one period of five or more years comprising the aggregate of—

(i) any period during which the person leaves NHS employment, and

(ii) any period during which the person is treated as never having been an active member of that Section in accordance with paragraph (3) of regulation B4 of those Regulations in respect of one or more later periods of NHS employment entered into after having given the notice for the purposes of paragraph (1) or (1A) of that regulation;

(i) the person—

(i) has given notice for the purposes of regulation B4 of the 1995 Regulations (opting-out of the scheme) and as a result of that notice all of that person's NHS employments ceased to be pensionable employment for the purposes of those Regulations,

(ii) is not entitled to a pension (including a deferred pension) under those Regulations, and

(iii) has been treated as ceasing to be in pensionable employment under the 1995 Regulations for a period of 12 months or more;

(j) the person—

(i) has given notice for the purposes of regulation B4 of the 1995 Regulations (opting-out of the scheme) and as a result of that notice all of that person's NHS employments ceased to be pensionable employment for the purposes of those Regulations,

(ii) is not entitled to a pension (including a deferred pension) under those Regulations, and

(iii) has, in respect of the NHS employments referred to in (i), either received a repayment of contributions or exercised the right to a transfer payment under Part M of those Regulations,".

Substitution of regulation 3.B.1A

39. For regulation 3.B.1A (eligibility: transitional), substitute—

"**3.B.1A Eligibility: transitional**

(1) A person is eligible to be an active member of this Section of the Scheme if—

(a) the person is not prevented from being so by regulation 3.B.2 or 3.B.6, and

(b) either—

(i) the Secretary of State has accepted that person's option to join this Section of the Scheme under Chapter 3.K, or

(ii) that person meets all of the requirements in paragraph (2).

(2) Those requirements are that the person—

(a) is under age 75,

(b) was an active member of the 1995 Section on, or after, 1st April 2008,

(c) became a pensioner member of the 1995 Section on, or before, 1st October 2009,

(d) has either—

(i) returned to NHS employment since becoming a pensioner member referred to in (c), or

(ii) commenced for the first time NHS employment, and

(e) is not eligible to be an active member of the 1995 Section in respect of the employment referred to in (d).

This is subject to the following paragraphs of this regulation.

(3) A person referred to in paragraph (2) is eligible to be an active member of this Section of the Scheme, from the day immediately following the end of Waiting Period A, if that person is entitled to a pension under one of the following regulations of the 1995 Regulations—

(a) E1 (normal retirement pension),

(b) E2A(3)(a) (tier 1 ill-health pension on early retirement),

(c) E3A (early retirement pension (termination of employment by employing authority)), or

(d) E5 (early retirement pension (with actuarial reduction)).

(4) A person referred to in paragraph (2) is eligible to be an active member of this Section of the Scheme, from the day immediately following the longer of Waiting Period A and Waiting Period B, if that person is entitled to a pension under one of the following regulations of the 1995 Regulations—

(a) E2 (early retirement pension (ill health)),

(b) E3 (early retirement pension (redundancy etc additional provisions)).

(5) If a person referred to in paragraph (2) is entitled to a pension under regulation E2A(3)(b) (tier 2 ill-health pension on early retirement), that person shall be eligible to be an active member of this Section of the Scheme from the day immediately following whichever of the following occurs last—

(a) the anniversary of that person entering NHS employment, or

(b) the end of Waiting Period A.

(6) A person to whom paragraph (1)(b)(i) or (3)(b) applies and who is entitled to a tier 1 ill-health pension under regulation E2A(3)(a) of the 1995 Regulations, ceases to be eligible to be an active member of this Section of the Scheme from the date the Secretary of State makes a determination that that person is entitled to a tier 2 ill-health pension in place of that tier 1 ill-health pension under regulation E2B(3) of those Regulations (re-assessment of ill-health condition determined under regulation E2A).

(7) For the purposes of this regulation—

(a) "Waiting Period A" is a period of two calendar years beginning on the day the person becomes entitled to the pension under the 1995 Regulations;

(b) "Waiting Period B" is a period beginning on the day the person becomes entitled to the pension under the 1995 Regulations equal to the calendar length of—

(i) any increase to the person's pensionable service in the 1995 Section which has been applied in accordance with paragraph (3) of regulation E2 of the 1995 Regulations, or

(ii) any additional service with which the person has been credited in accordance with regulation 5 of the National Health Service (Compensation for Premature Retirement) Regulations 2002(**a**).

(8) This regulation applies to any person who has previously been an active member of a corresponding 1995 scheme as though any reference to—

(a) the "1995 Section" includes a reference to that corresponding 1995 scheme;

(b) the "1995 Regulations" includes a reference to any regulations, orders, rules or other instruments governing that corresponding 1995 scheme;

(c) regulations "E1", "E2", "E2A", "E2B(3)", "E3", "E3A", "E3A(3)(a)", "E3A(3)(b)" or "E5" includes the equivalent of those regulations in a health service scheme the provisions of which correspond to the 1995 Regulations, and

(**a**) S.I. 2002/1311.

(d) "regulation 5 of the National Health Service (Compensation for Premature Retirement) Regulations 2002" includes the equivalent of that regulation as it applies to a member of a corresponding 1995 scheme.".

Amendment of regulation 3.B.2

40. For paragraph (1) of regulation 3.B.2 (restrictions on eligibility: general), substitute—

"(1) A person is not eligible to be an active member of this Section of the Scheme if the person—

(a) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or before, 1st April 2008 (except if paragraph (1)(b)(i) of regulation 3.B.1A applies to that person), or

(b) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on, or after, that date (except if paragraph (1)(b)(i) or (ii) of regulation 3.B.1A applies to that person), or

(c) is a deferred member of the 1995 Section or a corresponding 1995 scheme, but is not a deferred member—

(i) to whom regulation 3.B.1(5)(e), (f), (g) or (h) applies, and

(ii) in respect of whom permission of the Secretary of State to rejoin the 1995 Section has not been granted pursuant to regulation B2(3) of that Section.".

Substitution of regulation 3.C.15

41. For regulation 3.C.15 (revaluation of increases bought under options: members' pensions), substitute—

"**3.C.15 Revaluation of increases bought under options: members' pensions**

(1) Where an option under regulation 3.C.6, 3.C.8 or 3.C.9 has been exercised, the final amount of the increase in a member's pension immediately before the beginning date for that pension shall be determined in accordance with this regulation.

(2) Where the increase in pension is in respect of an option that was exercised less than 2 months before the increase becomes payable, the final amount is calculated in accordance with paragraph (4).

(3) Where the increase in pension is in respect of an option that was exercised 2 or more months before the increase in pension becomes payable, the final amount is calculated in accordance with paragraph (5).

(4) The calculation referred to in paragraph (2) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 3.C.12 to 3.C.14, to find the Step 1 amount.

Step 2 – Add to the Step 1 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 1 amount when it first falls into payment, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the Step 1 amount, to find the Step 3 factor.

Step 4 – Divide the Step 1 amount by the Step 3 factor to find the final amount referred to in paragraph (1).

(5) The calculation referred to in paragraph (3) is as follows—

Step 1 – Calculate the basic amount of the increase in accordance with regulations 3.C.12 to 3.C.14, to find the Step 1 amount.

Step 2 – Multiply the Step 1 amount by the retail prices index for the second

month before the month in which the increase in pension will become payable, to find the Step 2 amount.

Step 3 – Divide the Step 2 amount by the retail prices index for the month in which the option was exercised, to find the Step 3 amount.

Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.

Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.

Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.

Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).

(6) In this regulation, "the beginning date", in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act 1971 (see section 8(2) of that Act).".

Amendment of regulation 3.D.7

42. After paragraph (18) of regulation 3.D.7 (early retirement on ill-health (active members and non-contributing members)), insert—

"(19) In the case of a Waiting Period Joiner, this regulation is subject to regulation 3.L.3."

.

Amendment of regulation 3.E.2

43. After paragraph (3) of regulation 3.E.2 (meaning of "surviving nominated partner"), insert—

"(4) In the case of a Waiting Period Joiner, this regulation is subject to regulation 3.L.2.".

Amendment of regulation 3.E.10

44. In paragraph (3) of regulation 3.E.10 (amount of children's pension under regulation 3.E.8: deceased active members and deceased non-contributing members), after "3.K.23" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 3.L.5".

Amendment of regulation 3.E.11

45. In paragraph (3) of regulation 3.E.11 (amount of children's pension under regulation 3.E.8: deceased pensioner members), after "3.K.23" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 3.L.5".

Amendment of regulation 3.E.12

46. In paragraph (3) of regulation 3.E.12 (amount of children's pension under regulation 3.E.8: deceased deferred members), after "3.K.23" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 3.L.5".

Amendment of regulation 3.E.17

47. In paragraph (1) of regulation 3.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 3.D.5 employments)), after "3.K.22" (in the full out words) add "and in the case of a Waiting Period Joiner, this is subject to regulation 3.L.4".

Amendment of regulation 3.E.21

48. After paragraph (13) of regulation 3.E.21 (payment of lump sums or pensions on death), insert—

"(14) In the case of a Waiting Period Joiner, this regulation is subject to regulation 3.L.2."

.

Amendment of regulation 3.H.4

49. In regulation 3.H.4 (meaning of "relevant income")—

(a) in paragraph (2)(b), for "acturial" substitute "actuarial";

(b) after paragraph (5), insert—

"(5A) The resulting reduction in the pension is taken into account for the purposes of this regulation if the employed pensioner—

(a) exercised the option under regulation 3.D.14 (election to allocate pension) in relation to the old service pension, or

(b) is a 2008 Section Optant who was entitled to a lump sum under regulation 3.K.11 in relation to the old service pension.".

Amendment of regulation 3.K.1

50. In paragraph (1) of regulation 3.K.1 (application of Chapter 3.K)—

(a) at the end of sub-paragraph (a), omit "and";

(b) after sub-paragraph (b), add—

"(c) are pensioner members of the 1995 Section in respect of a pension payable under regulation E3 or E3A of the 1995 Regulations (which deal with an early retirement pension on the grounds of redundancy and an early retirement pension on termination of employment by employing authority, respectively).".

Amendment of regulation 3.K.2

51. In regulation 3.K.2 (options for 1995 Section members to join this Section of the Scheme under Chapter 3.K)—

(a) in paragraph (9), after "1995 Section if" insert "either paragraph (9A) applies to that person or that person satisfies all of the following";

(b) after paragraph (9), add—

"(9A) This paragraph applies to a person who—

(a) has ceased to pay contributions in accordance with paragraph (3) or paragraph (4) of regulation D1 of the 1995 Regulations (contributions by members),

(b) is continuing in NHS employment, and

(c) exercises the option before the end of the four month period beginning with the comparative statement issue date.";

(c) in paragraph (13), for "(4) and (9)" substitute "(4), (9) and (9A)".

New Chapter 3.L

52. After Chapter 3.K (2008 Section Optants), insert—

"CHAPTER 3.L

Waiting Period Joiners

3.L.1 Application of Chapter 3.L

(1) This Chapter makes provision in relation to pensioner members of the 1995 Section who are eligible to be members of this Section of the Scheme in accordance with paragraph (1)(b)(ii) of regulation 3.B.1A (eligibility: transitional).

(2) A member of this Section of the Scheme to whom this Chapter applies is referred to as a "Waiting Period Joiner".

3.L.2 Nominations and notices accepted by the Secretary of State under the 1995 Regulations and Chapter 3.E of these Regulations

(1) This regulation applies if—

(a) on the day a Waiting Period Joiner becomes an active member of this Section of the Scheme—

(i) the Secretary of State has accepted any of the nominations or notices specified in paragraph (2) in respect of the benefits to be paid on the death of that Joiner, and

(ii) that Joiner has not revoked that nomination or notice, or

(b) at any time after a Waiting Period Joiner becomes an active member of this Section of the Scheme, that Joiner gives a notice, nomination or declaration for the purposes of a regulation listed in the table in paragraph (4).

(2) The nominations and notices referred to in paragraph (1)(a) are—

(a) 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 those Regulations (which deal with lump sum payments on the death of a member in different circumstances);

(b) a notice provided for the purposes of paragraph (3)(a) of regulation F5 of the 1995 Regulations that the person's surviving partner (within the meaning of that regulation) is not to receive the payment of any lump sum that becomes payable under regulations F1 to F4 of those Regulations;

(c) a notice provided for the purpose of regulation G14 of the 1995 Regulations (surviving nominated partner's pension) nominating a partner to receive a surviving nominated partner pension.

(3) For the purpose of this Section of the Scheme a nomination or notice referred to in paragraph (1)(a) shall be treated—

(a) in the case of the nomination referred to in paragraph (2)(a), as if that nomination has been accepted by the Secretary of State as a notice for the purposes of regulation 3.E.21,

(b) in the case of a notice referred to in paragraph (2)(b), as if that notice had been accepted by the Secretary of State as a notice for the purposes of regulation 3.E.21 specifying that the Waiting Period Joiner's personal representatives are to receive any lump sum or pension on the death of that Joiner, and

(c) in the case of a notice referred to in paragraph (2)(c), as if that notice had been accepted by the Secretary of State as a declaration for the purposes of regulation 3.E.2.

(4) A notice, nomination or declaration referred to in paragraph (1)(b) that is given by a Waiting Period Joiner for the purposes of a regulation listed in column 1 of the following table shall, without more, be treated as a notice, nomination or declaration given for the purposes of the corresponding regulation in column 2.

Column 1 *1995 Regulations*	*Column 2* *2008 Regulations*
F5	3.E.21
G14	3.E.2

3.L.3 Waiting Period Joiners who are in receipt of a tier 1 ill-health pension under Regulation E2A of the 1995 Regulations

(1) This regulation applies to a Waiting Period Joiner who—

(a) is entitled to a tier 1 ill-health pension under regulation E2A of the 1995 Regulations (ill-health pension on early retirement) in respect of service in the 1995 Section ("the earlier 1995 Section service"), and

(b) becomes entitled to a tier 1 ill-health pension or, as the case may be, a tier 2 ill-health pension under regulation 3.D.7 in respect of service in this Section of the Scheme ("the later 2008 Section service").

(2) For the purposes of determining whether a Waiting Period Joiner can count 45 years of pensionable service for any purpose, the earlier 1995 Section service and the later 2008 Section service are aggregated.

(3) A Waiting Period Joiner is entitled to the benefits set out in paragraph (4) if, on the termination of the later 2008 Section service, that Joiner becomes entitled to a tier 1 or a tier 2 ill-health pension under regulation 3.D.7 in respect of that later service.

(4) Those benefits are—

(a) a tier 1 ill-health pension under regulation E2A of the 1995 Regulations in respect of the member's earlier 1995 Section service, and

(b) a tier 1 or, as the case may be, a tier 2 ill-health pension in respect of the member's later 2008 Section service.

This is subject to paragraph (5).

(5) A Waiting Period Joiner is entitled to the benefits set out in paragraph (6) where that Joiner—

(a) ceases to be entitled to a tier 1 ill-health pension in respect of the earlier 1995 Section service,

(b) becomes entitled to a tier 2 ill-health pension in respect of that earlier 1995 Section service in accordance with regulation E2B of the 1995 Regulations (re-assessment of ill health condition determined under regulation E2A), and

(c) becomes entitled to a tier 1 or, as the case may be, a tier 2 ill-health pension in respect of the later 2008 Section service on the termination of that later service.

(6) Those benefits are—

(a) a tier 2 ill-health pension paid in accordance with regulation E2B of the 1995 Regulations in respect of the earlier 1995 Section service, and

(b) a tier 1 ill-health pension in respect of the later 2008 Section service.

3.L.4 Lump sum payable on the death of a Waiting Period Joiner

(1) This regulation applies to a Waiting Period Joiner who, on the date of that Joiner's death, is an active or a non-contributing member in respect of service in this Section of the Scheme ("the later 2008 Section service").

(2) The lump sum payable on the death of a Joiner referred to in paragraph (1) shall be calculated in accordance with whichever of paragraphs (3) to (6) applies to that Joiner and shall be paid in place of the lump sum that, apart from this regulation, would otherwise be payable in respect of that Joiner's later 2008 Section service under regulation 3.E.17.

(3) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had not reached age 65 and who had not exercised the option under regulation 3.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 3.D.7(5) to which that deceased Joiner would have been entitled at that date, multiplied by five.

(4) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member who had reached age 65 and who had not exercised the option under regulation 3.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 3.D.1 to which that deceased Joiner would have been entitled at that date, multiplied by five.

(5) Where, at the date of a Waiting Period Joiner's death, that Joiner was a non-contributing member who had not exercised the option under regulation 3.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension to which that Joiner would have been entitled under regulation 3.D.1 on the last day of that Joiner's pensionable service, multiplied by five.

(6) Where, at the date of a Waiting Period Joiner's death, that Joiner was an active member or a non-contributing member who had exercised the option under regulation 3.D.5, the lump sum referred to in paragraph (2) shall be determined by the Secretary of State after taking advice from the Scheme actuary.

3.L.5 Children's pensions payable on the death of a Waiting Period Joiner

(1) This regulation applies in respect of a Waiting Period Joiner's service in this Section of the Scheme, where at the date of that Joiner's death that Joiner was an active, non-contributing, pensioner or deferred member who was entitled to a pension under the 1995 Regulations in respect of service in the 1995 Section ("the earlier 1995 Section service").

(2) In the case of a deceased Waiting Period Joiner who, at the date of that Joiner's death, was an active or non-contributing member, "the basic death pension" for the purposes of paragraph (3) of regulation 3.E.10 shall have the meaning given in paragraph (3) of this regulation.

(3) The "basic death pension" means twice the appropriate proportion of the deceased member's pension under regulation 3.D.1 and—

(a) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death, an active member that pension includes the greater of—

(i) any increase due to such enhancement period that would have applied for the purposes of regulation 3.D.7(5) if that Joiner had become entitled to a tier 2 ill-health pension at that date, and

(ii) that Joiner's later 2008 Section service as an active member plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service as an active member, and

(bb) 10 years pensionable service,

where the amount of service in (aa) is less than that specified in (bb);

(b) in the case of a deceased Waiting Period Joiner who was, at the date of that Joiner's death a non-contributing member, the pensionable service that Joiner was entitled to count under this Section of the Scheme on the date of that Joiner's death.

(4) In the case of a deceased Waiting Period Joiner who was a pensioner member at the date of that Joiner's death, "the basic death pension" for the purposes of paragraph (3) of regulation 3.E.11 shall have the meaning given in paragraph (5) of this regulation.

(5) The "basic death pension" means the greater of—

(a) twice the appropriate proportion of the deceased Waiting Period Joiner's annual pension (disregarding any additional pension), and

(b) twice the appropriate proportion of the annual pension (disregarding any additional pension), to which that Joiner would have been entitled calculated as the aggregate of that Joiner's later 2008 Section service plus the difference between—

(i) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service, and

(ii) 10 years pensionable service,

where the amount of service in (i) is less than that specified in (ii).

(6) In the case of a deceased Waiting Period Joiner who was a deferred member at the date of that Joiner's death, "the basic death pension" for the purposes of paragraph (3) of regulation 3.E.12 shall have the meaning given in paragraph (7) of this regulation.

(7) The "basic death pension" means—

(a) if the deceased Waiting Period Joiner died within 12 months of the day on which that Joiner ceased to be an active member or a non-contributing member (the cessation date), the amount that would be the basic death pension for the purposes of regulation 3.E.10 if that Joiner had died on the cessation date (disregarding any additional pension), and

(b) if the deceased Waiting Period Joiner died more than 12 months after ceasing to be an active member or a non-contributing member, the greater of—

(i) twice the appropriate proportion of the pension to which that Joiner would have been entitled if that Joiner had become entitled to a pension under regulation 3.D.1 on the date of death (disregarding any additional pension), and

(ii) twice the appropriate proportion of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner's later 2008 Section service that has been deferred plus the difference between—

(aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service that has been deferred, and

(bb) 10 years pensionable service,

where the amount of service in (aa) is less than that specified in (bb).".

PART 4

Amendment of the National Health Service (Injury Benefits) Regulations 1995

Amendment of the National Health Service (Injury Benefits) Regulations 1995

53.—(1) The National Health Service (Injury Benefits) Regulations 1995(**a**) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the definition of "GMS practice"—

(i) in paragraph (a), after "registered medical practitioner" insert "who is a type 1 medical practitioner",

(ii) in paragraph (b), after "or more" insert "such";

(b) at the appropriate place in the alphabetical order, insert—

""GP performer" has the meaning given in regulation A2 of the 1995 Regulations or, as the case may be, regulation 3.A.1 of the 2008 Regulations;

"GP provider" has the meaning given in regulation A2 of the 1995 Regulations or, as the case may be, regulation 3.A.1 of the 2008 Regulations;

(**a**) S.I. 1995/866. The relevant amending instrument is S.I. 2008/655.

"registered medical practitioner" has the meaning given in section 55 of the Medical Act 1983(**a**);".

(3) In paragraph (1)(b)(i) and (2)(b)(i) of regulation 2A (meaning of "practitioner"), after "registered medical practitioner" insert "who is a GP provider or a GP performer".

PART 5

Amendment of the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000

Amendment of the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000

54.—(1) The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000(**b**) are amended as follows.

(2) At the end of paragraph (1) of regulation 3 (making and acceptance of elections), insert (as full out words) "Paragraph (1)(a) is subject to regulation 11(1A).".

(3) In paragraph (1)(a) of regulation 6 (circumstances in which elections cease to have effect), after "participation in" insert "this Section of".

(4) In paragraph (1) of regulation 9 (inwards transfer: mis-sold pensions)—

(a) after "opting into", insert "this Section of";

(b) after "or rejoin", insert "this Section of".

(5) In regulation 11 (retirement and dependants' pensions)—

(a) in paragraph (1), after "Subject to paragraph" insert "(1A) and";

(b) after paragraph (1), add—

"(1A) Paragraphs (1B) to (1E) apply where the proceeds of any investment made under regulation 7(1), 8(2) or 9(4) are insufficient for the authorised fund to provide benefits in accordance with paragraph (1) and the participator is unwilling, or unable, to secure benefits in accordance with that paragraph from another insurer.

(1B) In the case of a single authorised fund, that fund may discharge its liability for the payment of the benefits described in paragraph (1) by the payment of a lump sum that complies with the conditions in paragraph (1E).

(1C) In the case of more than one authorised fund, each such fund may discharge its liability for the payment of the benefits described in paragraph (1), by the payment of a lump sum.

(1D) Where paragraph (1C) applies the lump sums referred to in that paragraph must (in aggregate) comply with the conditions in paragraph (1E).

(1E) Those conditions are that the lump sum or sums—

(a) represent the capital value of the benefits referred to in paragraph (1), and

(b) meet the requirements of regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009(**c**) (payments by larger pension schemes).";

(c) at the end of paragraph (3), insert (as full out words) "This paragraph is subject to paragraph (1A).";

(d) at the end of paragraph (5), insert (as full out words) "This paragraph is subject to paragraph (1A).";

(e) in paragraph (7), omit "and paragraph 19 of the Schedule".

(**a**) 1983 c.54.
(**b**) S.I. 2000/619. The relevant amending instruments are S.I. 2002/610, 2006/600, 2008/655 and 2009/2446.
(**c**) S.I. 2009/1171.

(6) In regulation 15 (payments by the Secretary of State)—

(a) for paragraph (1), substitute—

"(1) Subject to paragraph (2), where an authorised provider fails to pay any amount due by way of—

(a) an annuity,

(b) a pension commencement lump sum,

(c) a lump sum death benefit, or

(d) a lump sum payment referred to in regulation 11(1B) or (1C),

the Secretary of State shall be liable to pay that amount.";

(b) in paragraph (3), for "11(4), or under regulation" substitute "11(1B), 11(1C), 11(4),";

(c) in paragraph (4), before "11(8)" insert "11(1B), 11(1C),".

(7) After paragraph 4(8) of Schedule 2 (pension sharing on divorce or nullity of marriage or, dissolution or nullity of civil partnership), add—

"(9) This paragraph is subject to regulation 11(1A).".

PART 6

Miscellaneous

Option to persons detrimentally affected by these Regulations

55.—(1) This regulation applies in relation to any benefit which is being paid or may become payable under the regulations amended by these Regulations to or in respect of a person who, having served in an employment or office, service in which qualified the person to participate in the benefits provided under the regulations amended by these Regulations, ceased to serve therein before these Regulations came into force.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Secretary of State within 6 months of the coming into force of these Regulations or such longer period as the Secretary of State may allow.

(4) An election pursuant to paragraph (2) shall have effect in relation to the benefit referred to in paragraph (1) only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the coming into force of these Regulations) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if that person had never recommenced service at any time after that cessation (or, as the case may be, the last such cessation).

Signed by authority of the Secretary of State for Health.

Ann Keen
Parliamentary Under-Secretary of State,
22nd February 2010 Department of Health

We consent

Tony Cunningham
Steve McCabe
25th February 2010 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service Pension Scheme Regulations 1995 (S.I. 1995/300) ("the 1995 Regulations"), the National Health Service Pension Scheme Regulations 2008 (S.I. 2008/653) ("the 2008 Regulations"), the National Health Service (Injury Benefits) Regulations 1995 (S.I. 1995/866) ("the Injury Benefits Regulations") and the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 (S.I. 2000/619) ("the AVC Regulations").

Regulation 1 provides for citation, commencement and effect, including that certain provisions of this instrument are to take effect from various dates before the date of commencement. Section 12(1) of the Superannuation Act 1972 (c.11) provides authority for the regulations specified in regulation 1(3) and (4) to take effect as from a date earlier than the making of these Regulations.

The remainder of the Regulations is divided into five Parts, with Parts 2 to 5 amending the 1995 Regulations, the 2008 Regulations, the Injury Benefits Regulations and the AVC regulations respectively, and Part 6 providing that certain persons detrimentally affected by these Regulations may elect for the provisions not to apply to them.

Parts 2 and 3 make similar amendments in respect of both the 1995 Regulations and the 2008 Regulations. They also introduce amendments specific to either the 1995 Regulations or the 2008 Regulations.

The changes dealing with similar issues in Parts 2 and 3 (amending the 1995 and 2008 Regulations)—

- introduce new provisions covering the arrangements for certain re-employed pensioner members of the 1995 Section to join the 2008 Section once a specified period of time has passed since retirement (regulations 3(e), 5, 8, 9, 10, 11, 17(d), 20, 21, 25, 26, 27, 28, 29, 30, 31, 35, 36(e), 39, 40 , 42, 43, 44, 45, 46, 47, 48, and 52)
- amend the definition of "Ophthalmic Provider" (regulations 3(a) to (e), 17 (a) to (d) and 36(a) to (e))
- clarify that in certain circumstances persons who have opted out of the 1995 Section and pensioner members of other Health Service schemes (Scotland, Northern Ireland and the Isle of Man) will not be permitted to join or re-join that Section (regulations 4(2)(a) to (f), 12, 19 and 38) The changes relating to persons who have opted out and who cannot count any service in the 1995 section are made with retrospective effect from1 April 2008 (see regulation 1)
- provide for an adjustment to the method of revaluing 'Additional Pension' purchased to allow for negative inflation (regulations 14, 24 and 41)
- add, to the range of interested parties that have to be declared in returns completed in connection with the distribution of pensionable earnings between type 1 dental practitioners, the name of any practice shareholder (regulations 15 and 37).

The changes specific to Part 2 (amending the 1995 Regulations)—

- clarify the way in which benefits resulting from a contract to purchase additional service are reduced when the member retires before normal pension age and claims actuarially reduced benefits (regulations 6, 7 and 13);
- clarify the type of contributions to be paid by a host Trust or Local Health Board, (regulation 15(3)).

The changes specific to Part 3 (amending the 2008 Regulations)—

- amend the definitions associated with the formulae used for calculating reckonable pay (regulation 18)

- correct a cross reference in regulation 2.C.5 (regulation 22)
- provide for employing authorities to pay a contribution to cover the cost of the early payment of the mandatory retirement lump sum paid to an Optant who retires from that authority on grounds of redundancy (regulation 23)
- adjust the income used to assess the abatement of a pension on a pensioner's re-employment to take account of the mandatory lump sum that must be taken by a 2008 Section Optant (regulations 32 and 49)
- permit the acceptance of an option to join the 2008 Section made by 1995 Section members in certain circumstances with retrospective effect to 1 October 2009 (regulations 33, 34, 50 and 51).

Part 4 amends the Injury Benefits Regulations to insert and update definitions relating to "GP performer", "GP provider" and "registered medical practitioner" (regulation 53).

Part 5 (regulation 54) amends the AVC Regulations to—

- enable AVC arrangements to take advantage of HMRC easements under the Registered Pension Schemes (Authorised Payments) Regulations 2009
- provide that a person with AVC proceeds totalling less than £2000 who is unable to secure an annuity, will be able to take payment in the form of a lump sum
- incorporate references to the 1995 and 2008 National Health Service Pension Scheme Regulations.

Part 6 provides that deferred members, or members in receipt of a relevant benefit, who are detrimentally affected by these Regulations may elect for the provisions not to apply to them by giving notice within six months of the coming into force of these Regulations (regulation 55).

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