

2017 No.

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

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

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

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

In accordance with section 10(4) of Superannuation Act 1972 and section 21 of the Public Service Pensions Act 2013, 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 and Additional Voluntary Contributions (Amendment) Regulations 2017.

(2) These Regulations come into force on 1st April 2017 and have effect from 1st April 2017 except for amending regulation 4 which shall have retrospective effect from 1st April 2016 and regulations 26, 29(2), 30, 31, 41 43 and 47 which shall have retrospective effect from 1st April 2015.

(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) (“the 1990 Act”). Section 12(2) was amended by section 10(1) of the 1990 Act. As to Treasury consent, see section 10(1) of the Superannuation Act 1972 and article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(b) 2013 c.25.

PART 2

Amendment of the National Health Service Pension Scheme Regulations 1995

General

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

Amendment of regulation A2

- 3.—(1) Regulation A2 (interpretation) is amended as follows.
- (2) At the appropriate place in the alphabetical order, insert—
- (a) ““MCP standard contract” means the terms and conditions from time to time drafted by the National Health Service Commissioning Board, which relate to Multispecialty Community Providers, pursuant to regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standard Rules) Regulations 2012.”;
 - (b) ““MCP standard sub-contract” means a sub-contract that complies with the Department of Health guidance “MCP Standard Sub-contract for the Provision of Clinical Services 2017/18.””.
- (3) For the definition of “NHS standard contract”, substitute—
- ““NHS standard contract” means the terms and conditions from time to time drafted by the National Health Service Commissioning Board pursuant to its powers under regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) 2012.”.
- (4) In the definition of “practice staff”—
- (a) in paragraph (c), after “NHS standard sub-contract” insert “where the party to the NHS standard contract in question is an employing authority”.
 - (b) after sub-paragraph (d), insert
 - “(e) services pursuant to an MCP standard contract;
 - (f) services pursuant to an MCP standard sub-contract;”.
- (5) For the definition of “qualifying contract”, substitute—
- ““qualifying contract” means a contract between a relevant commissioning party and an Independent Provider the primary purpose of which is the provision of clinical health care services for the NHS and which is—
- (a) an NHS standard contract;
 - (b) an APMS contract;
 - (c) a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes;
 - (d) an NHS standard sub-contract;
 - (e) an MCP standard contract; or
 - (f) an MCP standard sub-contract;”.
- (6) In the definition of “NHS standard sub-contract”, for “2015/16” substitute “2016/17”.

(a) S.I. 1995/300

Amendment of regulation D3

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

(2) After paragraph (19), insert—

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

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

“(i) “national minimum wage” means the level of remuneration set by regulations within the meaning of the National Minimum Wage Act 1998.”.

Amendment to regulation M8

5.—(1) Regulation M8 (Member’s right to transfer a preserved pension to the 2015 Scheme) is amended as follows.

(2) After paragraph (5), insert—

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

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

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

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

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

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

(3) For paragraph (6), substitute—

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

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

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

Amendment to Schedule 2

6.—(1) Schedule 2 (medical and dental practitioners) is amended as follows.

(2) In paragraph (e) of the definition of “locum practitioner”, for “or an NHS standard sub-contract,” substitute “, an NHS standard sub-contract, an MCP standard contract or an MCP standard sub-contract,”

(3) In sub-paragraph (2)(i) of paragraph 3 (meaning of “pensionable earnings”), after “NHS standard contract,” insert “, an MCP standard contract or an MCP standard sub-contract”.

(4) In sub-paragraph (1)(a) and (4)(g) of paragraph 6 (meaning of “pensionable earnings” in relation to other practitioners), after “NHS standard contract,” insert “, an MCP standard contract or an MCP standard sub-contract”.

Amendment to Schedule 2B

- 7.—(1) Schedule 2B (independent providers) is amended as follows.
- (2) For sub-paragraph (a)(ii) of paragraph (14), substitute—
- “(ii) who is performing services pursuant to such a contract and who satisfies the wholly or mainly condition,”.
- (3) After sub-paragraph (a)(ii) of paragraph (14), insert—
- “(iii) who was, within the twelve months preceding the date of entering into employment with the Independent Provider, in an employment in which that employee was entitled to participate in superannuation benefits provided under section 10 of the Superannuation Act 1972 whether or not that employee had actually been a member of this Section of the Scheme pursuant to that entitlement; or”.
- (4) In sub-paragraph (ab) of paragraph 52 after “NHS standard sub-contract” insert “or MCP standard sub-contract”.

PART 3

Amendment of the National Health Service Pension Scheme Regulations 2008

General

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

Amendment of regulation 1.B.3

9. In paragraph (3B) of regulation 1.B.3 (provision of information relevant for tax purposes), for “scheme administrator” substitute “Scheme administrator”.

Amendment of regulation 2.A.1

- 10.—(1) Regulation 2.A.1 (interpretation: general) is amended as follows.
- (2) At the appropriate place in the alphabetical order, insert—
- (a) ““MCP standard contract” means the terms and conditions from time to time drafted by the National Health Service Commissioning Board, which relate to Multispecialty Community Providers, pursuant to regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standard Rules) Regulations 2012.”;
- (b) ““MCP standard sub-contract” means a sub-contract that complies with the Department of Health guidance “MCP Standard Sub-contract for the Provision of Clinical Services 2017/18.”;
- (c) ““the 2014 Act” means the Public Service Pension Act (Northern Ireland) 2014.”.
- (3) For the definition of “NHS standard contract”, substitute—
- ““NHS standard contract” means the terms and conditions from time to time drafted by the National Health Service Commissioning Board pursuant to its powers under regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) 2012.”.

(a) S.I. 2008/653

- (4) In the definition of “NHS standard sub-contract”, for “2015/16” substitute “2016/17”.
- (5) In the definition of “practice staff”—
- (a) in sub-paragraph (c), after “NHS standard sub-contract” insert “where the party to the NHS standard contract in question is an employing authority”.
 - (b) after sub-paragraph (c), insert—
 - “(d) services pursuant to an MCP standard contract;
 - (e) services pursuant to an MCP standard sub-contract;”.
- (6) For the definition of “qualifying contract”, substitute—
- ““qualifying contract” means a contract between a relevant commissioning party and an Independent Provider the primary purpose of which is the provision of clinical health care services for the NHS and which is—
- (a) an NHS standard contract;
 - (b) an APMS contract;
 - (c) a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes;
 - (d) an NHS standard sub-contract;
 - (e) an MCP standard contract; or
 - (f) an MCP standard sub-contract;”.

Amendment of regulation 2.B.2

- 11.—(1) Regulation 2.B.2 (restrictions on eligibility: general) is amended as follows.
- (2) For sub-paragraph (b) of paragraph (1H), substitute—
- “(b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act or subsection (5) of section 18 of the 2014 Act that provide for exceptions to subsection (1) of those sections, and”.
- (3) In paragraph (1J)—
- (a) In sub-paragraph (a), after “2013 Act” insert “or Schedule 5 to the 2014 Act”;
 - (b) For sub-paragraph (c), substitute—

“(c) the regulations of that existing scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act or subsection (5) of section 18 of the 2014 Act that provide for exceptions to subsection (1) of those sections.”.
- (4) In paragraphs (13C) and (13D), for “(8B)” substitute “(13B)”.
- (5) In paragraph (13F), for “2M.3” substitute “2.M.3”.

Amendment of regulation 2.C.6

- 12.—(1) Regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11), is amended as follows.
- (2) In paragraph (1), after “the employing authority” insert “subject to paragraph (6),”.
 - (3) In paragraph (2), after “the first authority must” insert “, subject to paragraph (6),”.
 - (4) In sub-paragraph (a) of paragraph (6), for “Actuary” substitute “actuary”.

Amendment of regulation 2.F.9

13.—(1) Regulation 2.F.9 (procedure for applications under regulation 2.F.8) is amended as follows.

(2) In sub-paragraph (c)(ii) of paragraph (1), for “transfer value payment is made.” substitute “transfer value is made; or”.

(3) After sub-paragraph (c)(ii) of paragraph (1), insert—

“(iii) where the applicant is not eligible to be an active member of this Section of the Scheme and the application is made in respect of a period of service in an existing scheme (within the meaning of Schedule 5 to the 2013 Act or the 2014 Act) or an existing public body scheme listed in Schedule 10 of those Acts, during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of the 2015 Scheme if—

(aa) paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which that transfer value payment is made, or

(bb) paragraph 2 of Schedule 7 to the Public Service Pensions Act (Northern Ireland) 2014 applies to the period of service in respect of which that transfer value payment is made, and

(cc) the transfer value payment is not made and accepted under the public sector transfer arrangements.”.

Amendment of regulation 2.F.18

14.—(1) Regulation 2.F.18 (right to transfer a deferred pension to the 2015 Scheme), is amended as follows.

(2) After paragraph (5), insert—

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

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

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

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

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

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

(3) For paragraph (6), substitute—

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

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

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

Amendment of regulation 2.H.1

15. In paragraph (4) of regulation 2.H.1 (application of Chapter 2.H), for “paragraph (5)” substitute “paragraph (4A)”.

Amendment of regulation 2.M.3

16.—(1) Regulation 2.M.3 is amended as follows.

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

“(ii) who is performing services pursuant to such a contract and who satisfies the wholly or mainly condition,”

(3) After sub-paragraph (a)(ii) of paragraph (2), insert—

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

Amendment of regulation 2.M.8

17. In sub-paragraph (ab) of paragraph (3) of regulation 2.M.8 (pension returns), after “NHS standard sub-contract” insert “or MCP standard sub-contract”.

Amendment of regulation 3.A.1

18.—(1) Regulation 3.A.1 (interpretation of part 3: general) is amended as follows.

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

(a) ““MCP standard contract” means the terms and conditions from time to time drafted by the National Health Service Commissioning Board, which relate to Multispecialty Community Providers, pursuant to regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standard Rules) Regulations 2012.”.

(b) ““MCP standard sub-contract” means a sub-contract that complies with the Department of Health guidance “MCP Standard Sub-contract for the Provision of Clinical Services 2017/18.”.

(c) ““the 2014 Act” means the Public Service Pension Act (Northern Ireland) 2014.”.

(3) For the definition of “NHS standard contract”, substitute—

““NHS standard contract” means the terms and conditions from time to time drafted by the National Health Service Commissioning Board pursuant to its powers under regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) 2012.”.

(4) In the definition of “NHS standard sub-contract”, for “2015/16” substitute “2016/17”.

(5) In the definition of “practice staff”—

(a) in sub-paragraph (c), after “NHS standard sub-contract” insert “where the party to the NHS standard contract in question is an employing authority”.

(b) after sub-paragraph (c), insert—

“(d) services pursuant to an MCP standard contract

(e) services pursuant to an MCP standard sub-contract;”.

(6) For the definition of “qualifying contract”, substitute—

““qualifying contract” means a contract between a relevant commissioning party and an Independent Provider the primary purpose of which is the provision of clinical health care services for the NHS and which is—

(a) an NHS standard contract;

(b) an APMS contract;

(c) a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes;

(d) an NHS standard sub-contract;

(e) an MCP standard contract; or

(f) an MCP standard sub-contract;”.

Amendment of regulation 3.A.7

19. In paragraph (2)(g) of regulation 3.A.7 (meaning of “pensionable earnings”), after “employing authority,” insert “or an MCP standard contract or an MCP standard sub-contract”.

Amendment of regulation 3.A.13

20.—(1) Regulation 3.A.13 (meaning of pensionable earnings in relation to other practitioners) is amended as follows.

(2) In sub-paragraph (e) of paragraph (1), after “NHS standard contract,” insert “, an MCP standard contract, and MCP standard sub-contract”.

(3) In sub-paragraph (f) of paragraph (1), for “purposes.” substitute “purposes,”.

(4) In paragraphs (1) and (2), omit “or for overtime”.

(5) In paragraph (4), for “an NHS standard contract or an NHS standard sub-contract where the party to the NHS Standard contract in question” substitute “an NHS standard contract, an MCP standard contract, an MCP standard sub-contract or an NHS standard sub-contract where the party to the NHS Standard contract or MCP standard contract in question”.

Amendment of regulation 3.B.2

21.—(1) Regulation 3.B.2 (restrictions on eligibility: general) is amended as follows.

(2) For sub-paragraph (b) of paragraph (1H), substitute—

“(b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act or subsection (5) of section 18 of the 2014 Act that provide for exceptions to subsection (1) of those sections, and”.

(3) In paragraph (1J)—

(a) In sub-paragraph (a), after “2013 Act” insert “or Schedule 5 to the 2014 Act”.

(b) For sub-paragraph (c), substitute—

“(c) the regulations of that existing scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act or subsection (5) of section 18 of the 2014 Act that provide for exceptions to subsection (1) of those sections,”.

Amendment of regulation 3.F.18

22.—(1) Regulation 3.F.18 (right to transfer a deferred pension to the 2015 Scheme) is amended as follows.

(2) After paragraph (5), insert—

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

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

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

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

- (a) be made by the member in writing on the form provided by the Secretary of State for that purpose;
- (b) be received by the Secretary of State before the end of the three month period beginning with the date of the notice under paragraph (5A).”.

(3) For paragraph (6), substitute—

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

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

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

Amendment of regulation 3.H.1

23. In paragraph (5) of regulation 3.H.1 (application of Chapter 3.H), for “paragraph (6)” substitute “paragraph (5A)”.

PART 4

Amendment of the National Health Service Pension Scheme Regulations 2015

General

24. The National Health Service Pension Scheme Regulations 2015(a) are amended in accordance with this Part.

Amendment of regulation 43

25.—(1) Regulation 43 (eligibility to make buy-out election) is amended as follows.

(2) In sub-paragraph (a) of paragraph (3), after “this scheme” insert “in accordance with paragraph (3A)”.

(3) After paragraph (3), insert—

“(3A) For the purposes of paragraph (3)(a), M is treated as entering pensionable service on each occasion that an active member’s account is established in respect of that service in accordance with regulation 24(1)(a).”.

(4) For paragraph (5), substitute—

(a) S.I. 2015/94

“M may make an election under this regulation on one occasion only during each period of pensionable service in respect of which an active member’s account is established in accordance with regulation 24(1)(a).”.

Amendment of regulation 58

26. After paragraph (4) of regulation 58 (making an additional pension election), insert—

“(5) For the purposes of this Chapter—

(a) a member is treated as having made an additional pension election on the date on which the employing authority receives the member’s notice under paragraph (1); and

(b) an employing authority is treated as having made an additional pension election on the date on which the scheme manager receives the authority’s notice under paragraph (2).”.

Amendment of regulation 63

27.—(1) Regulation 63 (repayment of lump sum contributions) is amended as follows.

(2) In sub-paragraph (a) of paragraph (2), for “representatives” substitute “personal representatives”.

(3) In sub-paragraph (c) of paragraph (2) and (3), before “pension account” insert “additional”.

(4) In paragraph (3), after “payable to M” insert “in consequence of a claim made”.

Amendment of regulation 66

28. In sub-paragraph (b) of paragraph (7) of regulation 66 (revoking an additional pension election (periodic payments)), for “representatives” substitute “personal representatives”.

Amendment of regulation 67

29.—(1) Regulation 67 (revocation of election by scheme manager (lump sum)) is amended as follows.

(2) In sub-paragraph (a) of paragraph (1), after “after the election” insert “was made”.

(3) In sub-paragraph (a) of paragraph (2), for “representatives” substitute “personal representatives”.

Amendment of regulation 69

30.—(1) Regulation 69 (death in service before end of contributions payment period) is amended as follows.

(2) For sub-paragraph (a) of paragraph (1), substitute—

“(a) whose additional pension election is for—

(i) an additional (self only) pension; or

(ii) an additional (self only) pension and an additional (survivor’s) pension; and”.

(3) In sub-paragraph (a) of paragraph (2), for “representatives” substitute “personal representatives”.

(4) Omit sub-paragraph (b) of paragraph (2).

(5) In sub-paragraph (b) of paragraph (4), for “(2)(a) to (c)” substitute “(2)(a) and (c)”.

Amendment of regulation 70

31.—(1) Regulation 70 (ill-health pension becomes payable before end of contributions payment period) is amended as follows.

(2) Omit sub-paragraph (b) of paragraph (2).

- (3) For paragraph (3), substitute—
- “(3) If an ill-health pension becomes payable to M in consequence of a claim made after the end of the refund period—
- (a) the periodic payments under the additional pension election are treated as being paid until the end of the contributions payment period for the election; and
 - (b) paragraph (4) applies.
- (4) For the purpose of calculating the annual rate of ill-health pension—
- (a) if the scheme manager believes that the declaration that accompanied the additional pension election was made in good faith, the amount of accrued additional pension is calculated under paragraph 28 of Schedule 9 as at the last day of pensionable service;
 - (b) if the scheme manager has reasonable grounds to believe that the declaration was not made in good faith, paragraph (2)(a) and (c) applies.”.

Amendment of regulation 90

- 32.—(1) Regulation 90 (entitlement to ill-health pension) is amended as follows.
- (2) In paragraph (2) —
- (a) in sub-paragraph (a), before “has not attained normal pension age” insert “is qualified for retirement benefits and”;
 - (b) in sub-paragraph (e), after “M” omit “has”.

Amendment of regulation 91

- 33.—(1) Regulation 91 (member’s incapacity) is amended as follows.
- (2) In sub-paragraph (b) of paragraph (6)—
- (a) in paragraph (i), before “;or” insert “before M reaches prospective normal pension age”;
 - (b) in paragraph (ii), after “ that regulation” insert “before M reaches prospective normal pension age ; or ”;
- (3) In sub-paragraph (c) of paragraph (6), before “normal pension age” insert “prospective”.

Amendment of regulation 123

34. In sub-paragraph (ii) of paragraph (3) of regulation 123 (amount of child pension: deceased active member), after “the Pensions (Increase) Act 1971” insert “on (L+1)”.

Amendment of regulation 150

- 35.—(1) Regulation 150 (interpretation) is amended as follows.
- (2) For paragraph (3), substitute—
- “(3) A qualifying contract is a contract between a relevant commissioning party and an independent provider the primary purpose of which is the provision of clinical health care services for the NHS and which is—
- (a) an NHS standard contract;
 - (b) an APMS contract;
 - (c) a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes;
 - (d) an NHS standard sub-contract;
 - (e) an MCP standard contract; or

- (f) an MCP standard sub-contract.”.

Amendment of regulation 151

36.—(1) Regulation 151 (application for employing authority status) is amended as follows.

(2) In sub-paragraph (b) (ii) of paragraph (4), for “that entitlement” substitute “that entitlement; and”.

(3) After sub-paragraph (b) insert—

“(c) who—

(i) is performing services pursuant to a qualifying contract; and

(ii) satisfies the wholly or mainly condition.”.

Amendment to regulation 157

37. In sub-paragraph (ab) of paragraph 4 of regulation 157 (pension returns), after “NHS standard sub-contract” insert “or MCP standard sub-contract”.

Amendment of regulation 166

38. In paragraph (7) of regulation 166 (medical practitioner), after “an NHS standard contract” insert “, an NHS standard sub-contract, an MCP standard contract, an MCP standard sub-contract”.

Amendment to Schedule 6

39. For Schedule 6 (persons to whom the scheme may be extended), substitute—

“SCHEDULE 6 Regulation 18(2)

Persons to whom the scheme may be extended

1. The categories or descriptions of persons to whom the scheme may be extended by determination pursuant to section 25 of the 2013 Act are as follows.

2. A person, or class of persons—

(a) who is—

(i) wholly or mainly engaged in health services, whether provided under the 2006 Act, the 2006 (Wales) Act or otherwise; or

(ii) an officer of a government department serving on the medical or nursing staff of that department or at or for the purposes of a hospital maintained by that department,

and who, if the person were in the employment of an NHS organisation, would be eligible to join the scheme;

(b) who is a member of a body constituted under the 2006 Act or the 2006 (Wales) Act other than a National Health Service Trust or an NHS Foundation Trust;

(c) whose employment by an employing authority has been transferred to another body pursuant to an enactment relating (in whole or in part) to health services;

(d) who—

(i) is employed by Monitor; and

(ii) was at any time previously in employment in which the person was entitled to participate in pension benefits provided by this scheme or a connected scheme.

3. A person who, while continuing in, or within twelve months after leaving, employment in which the person was entitled to participate in pension benefits provided by this scheme or a connected scheme (any period spent by that person on an approved course of study or training being left out of account), enters such other employment as may be approved by the Secretary of State for the purposes of these Regulations.

4. An approval given for the purposes of sub-paragraph (3) may specify provisions of these regulations which—

(a) are not to apply to the person; or

(b) are to apply to the person subject to such modifications as are specified.”.

Amendment to Schedule 8

40. In sub-paragraph (3) of paragraph 2 (persons subject to retention arrangements), after “A person who on,” insert “or after, 2nd April 2014 and”.

Amendment to Schedule 9

41.—(1) Schedule 9 (pensions accounts) is amended as follows.

(2) After sub-paragraph (3) of paragraph 3 (meaning of “leaver index adjustment”), insert—

“(4) Sub-paragraphs (1) and (2) are subject to paragraph (5).

(5) If the amount of the leaver index adjustment under sub-paragraphs (1) or (2) is an amount that is less than zero, the amount of the leaver index adjustment for the purposes of those paragraphs is increased to zero.”.

(3) After paragraph 15 of Part 2 of Schedule 9 (actuarial reduction buy-out), insert—

“PART 2A

Active member’s account for unqualified members

Closure of an active member’s account

15A. When an active member leaves all pensionable service but does not qualify for benefits under regulation 72 (“an unqualified member”) the active member’s account for that unqualified member must be closed.

Active member’s account for unqualified member re-established after break not exceeding 5 years

15B.—(1) This paragraph applies if —

(a) an unqualified member re-enters pensionable service under this scheme after a break in service not exceeding 5 years; and

(b) the rights of that member in respect of the service before the break have not been extinguished pursuant to regulation 42 (effect of refund) or regulation 140 (effect of transfer-out).

(2) When the unqualified member re-enters pensionable service under this scheme the active member’s account must be re-established.

(3) The active member’s account—

- (a) must specify the amount of accrued earned pension as at the beginning of the break in service; and
- (b) must be adjusted as if the member had continued as an active member during the break in service but had received no pensionable earnings.

Active member’s account for unqualified member remains closed after break exceeding 5 years

15C.—(1) This paragraph applies if an unqualified member re-enters pensionable service under this scheme after a break in service exceeding five years.

(2) When the unqualified member re-enters pensionable service under the scheme (“the further service”) —

- (a) the active member’s account in respect of the service before the break remains closed; and
- (b) a new active member’s account must be established in respect of the further service.”.

Amendment to Schedule 10

42.—(1) Schedule 10 (practitioner income) is amended as follows.

(2) In sub-paragraph (2)(b) of paragraph 2 (medical practitioner), for “expenses.” substitute “expenses; and”.

(3) After sub-paragraph (2)(b), insert—

“(c) in the case of a practitioner referred to in regulation 166(7), bonuses”.

(4) In sub-paragraph (3)(h) of paragraph 7 (locum practitioner), after “an NHS standard contract” insert “, an MCP standard contract, an MCP standard sub-contract”.

Amendment to Schedule 14

43.—(1) Schedule 14 (lump sum on death) is amended as follows.

(2) In sub-paragraph (1) of paragraph 3 (death of deferred member), after “the death of a deferred member” insert “who is not also an active member”.

(3) In sub-paragraph (3) of paragraph 7 (death of partial retirement pensioner), for the definition of “re-valued pensionable earnings” substitute—

““re-valued pensionable earnings” means, in relation to a scheme year, an amount equal to the actual pensionable earnings for the year increased by the same amount as that by which an annual pension equal to that amount would have been increased for the first time under the Pensions (Increase) Act 1971 at the relevant day if —

- (a) the pension was eligible to be so increased;
- (b) the beginning date for the pension was the first day of the following scheme year; and
- (c) the relevant day was the member’s last day of pensionable service.”.

Amendment to Schedule 15

44.—(1) Schedule 15 (definitions) is amended as follows.

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

- (a) ““MCP standard contract” means the terms and conditions from time to time drafted by the National Health Service Commissioning Board, which relate to Multispecialty Community Providers, pursuant to regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standard Rules) Regulations 2012.”;

- (b) ““MCP standard sub-contract” means a sub-contract that complies with the Department of Health guidance “MCP Standard Sub-contract for the Provision of Clinical Services 2017/18.”.
- (3) In column 2 of the entry for “locum practitioner”—
 - (a) in paragraph (2)(i), for “NHS standard sub-contract” substitute “NHS standard sub-contract.”;
 - (b) after paragraph (2)(i), insert—
 - “(j) services pursuant to an MCP standard contract or MCP standard sub-contract”.
- (4) In column 2 of the entry, for “NHS standard sub-contract” substitute “means a sub-contract that complies with the Department of Health guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2016/17””.
- (5) In column 2 of the entry for “practice staff”—
 - (i) in paragraph (c), after “NHS standard sub-contract” insert “ where the party to the NHS standard contract in question is an employing authority”;
 - (ii) in paragraph (d), for “Independent Provider” substitute “Independent Provider.”;
 - (iii) after paragraph (d) insert—
 - “(e) services pursuant to an MCP standard contract or MCP standard sub-contract”.

PART 5

Amendment of the National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015

General

45. The National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015^(a) are amended in accordance with this Part.

Amendment of regulation 10A

46. In sub-paragraph (a) of paragraph (2) of regulation 10A (effect of recommencing service after break), for “ill health” substitute “ill-health”.

Amendment of regulation 18

47.—(1) Regulation 18 (uprating of old scheme practitioner earnings) is amended as follows.

(2) For “In relation to” substitute—

“(1) Subject to paragraphs (2) and (3), in relation to”.

(3) After paragraph (1), insert—

“(2) Paragraph (3) applies if a practitioner transition member is purchasing additional service pursuant to regulation 22 (existing additional service and unreduced lump sum contracts) of these Regulations;

(3) Paragraph (1) does not apply for the purposes of calculating that member’s uprated pensionable earnings in relation to that purchase for the purposes of sub-paragraph (5) of paragraph 20 of Schedule 2 to the 1995 Regulations.”.

^(a) S.I. 2015/95

Amendment of regulation 40

48. In the left hand column of Part 2 (entitlements derived from the 2008 section) of Regulation 40 (death in service), for “2.E.17 or 3.E.17” substitute “2.E.17 (1) or 3.E.17 (1)”.

PART 6

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

General

49. The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 are amended in accordance with this Part.

Amendment of regulation 2

50. In the definition of “pensionable employment” in regulation 2 (interpretation), for “Provisions” substitute “Provisions”.

Amendment of regulation 3

51. In sub-paragraph (a) of paragraph (3) of regulation 3 (making and acceptance of elections), omit “or”.

Amendment of regulation 15

52.—(1) Regulation 15 (payments by the secretary of state) is amended as follows.

(2) In sub-paragraph (b) (ii) of paragraph (3), after “the payment” insert “; or”.

(3) After sub-paragraph (b) of paragraph (3), insert—

“(c) in accordance with paragraph (3B)”.

(4) After paragraph (3A), insert—

“(3B) Where the member has given notice prior to their death to the Secretary of State in accordance with paragraphs (3C) below that the lump sum is to be paid to a person specified in the notice, and has not revoked that notice, the lump sum may be paid to that person unless—

(a) that person has died before the payment can be made; or

(b) payment to that person is not, in the opinion of the Secretary of State, reasonably practicable.

(3C) Notice to the Secretary of State for the purpose of paragraph (3B) above—

(a) must be given only by a participator in the AVC scheme;

(b) must be given in writing; and

(c) may at any time be revoked in writing;

(d) must nominate the whole of the lump sum to a nominee and, in the case of a notice that specifies more than one person as nominee, must also specify the percentage of the lump sum to be paid to each such person,

(e) must specify one or more persons who may be—

(i) an individual;

- (ii) a body corporate;
- (iii) an unincorporated body;
- (iv) the member's personal representatives,".

and a participator who revokes such a notice may give further notice for the purpose of that paragraph.

PART 7

Miscellaneous

Option to persons detrimentally affected by these Regulations

53.—(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—

- (a) served in an employment or office which qualified the person to participate in the benefits provided under the regulations amended by these Regulations, and
- (b) ceased to serve in that employment or office 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 six 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.

Address
Date

Name
Minister of State for Health
Department of Health

We consent

Date

Name
Name
Two of the Lords Commissioners of Her Majesty's Treasury