

**2013 No.XXXX**

**NATIONAL HEALTH SERVICE, ENGLAND AND  
WALES**

**The National Health Service Pension Scheme (Amendment)  
Regulations 2014**

<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) 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 etc.**

**1.** These Regulations may be cited as the National Health Service Pension Scheme (Amendment) Regulations 2014 and shall come into force on 1st April 2014.

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(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).

## PART 2

### Amendment of the National Health Service Pension Scheme Regulations 1995

#### Interpretation of Part 2

2. In this Part, an alphanumerical reference to a regulation or a reference to a Schedule is a reference to a provision of the National Health Service Pension Scheme regulations 1995 bearing that designation.

#### Amendment of regulation A2

3. In regulation A2 (interpretation)—

(a) after paragraph (n) of the definition of “employing authority”, add—

“(o) an Independent Provider”;

(b) for the definition of “host Board”, substitute—

““host Board” means—

(a) in respect of a non-GP provider who is a partner in a partnership that has entered into a PMS agreement for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with whom that Provider has entered into such an agreement;

(b) in respect of a non-GP provider who is a partner in a partnership that has entered into a GMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that partnership has entered into such an agreement;

(c) in respect of a non-GP provider who is a partner in a partnership that is an APMS contractor which has entered into an APMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that partnership has entered into such a contract;

(d) in respect of a non-GP provider who is a shareholder in a company limited by shares that is a GMS practice or a PMS practice or an APMS contractor which has entered into a GMS contract, PMS agreement or APMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that company has entered into such an agreement or contract;

(e) in respect of a non-GP provider who is an individual who is a GMS practice or a PMS practice or an APMS contractor, means the National Health Service Commissioning Board or each Local Health Board with which that practice or contractor has entered into an agreement or contract as such a practice or contractor;

(f) in respect of a type 1 medical practitioner, means the National Health Service Commissioning Board or each Local Health Board with whom the practitioner has contracted, or entered into an agreement, to provide GMS, PMS or APMS;

(g) in respect of a type 2 medical practitioner—

(i) in England, means National Health Service Commissioning Board in respect of GMS, PMS, APMS, OOHS and other primary medical services it has commissioned from a GMS, PMS or APMS contractor or OOH provider and which that practitioner performs for that

- contractor under a contract of service or for services with that contractor;
- (ii) in respect of Wales, means the relevant Local Health Board in respect of GMS, PMS, APMS, OOHs and other primary medical services it has commissioned from a GMS, PMS or APMS contractor or OOH provider and which that practitioner performs for that contractor under a contract of service or for services with that contractor;
- (h) in respect of a locum practitioner means the National Health Service Commissioning Board or each Local Health Board on whose medical performers list the practitioner’s name appears;
  - (i) in respect of a type 1 dental practitioner who holds a GDS contract or has entered into a PDS agreement, means the National Health Service Commissioning Board or each Local Health Board with whom that practitioner—
    - (i) is contracted to provide services under a GDS contract, or
    - (ii) has entered into an agreement to provide services under a PDS agreement;
  - (j) in respect of a type 1 dental practitioner who performs GDS or PDS but is not a party to a GDS contract or PDS agreement—
    - (i) in England, means the National Health Service Commissioning Board in respect of GDS, or PDS it has commissioned from a GDS or PDS contractor and which that practitioner performs for that contractor under a contract of service or for services with that contractor;
    - (ii) in respect of Wales, means the relevant Local Health Board in respect of GDS, or PDS it has commissioned from a GDS or PDS contractor and which that practitioner performs for that contractor under a contract of service or for services with that contractor;
  - (k) in respect of a type 2 dental practitioner—
    - (i) in England, means the National Health Service Commissioning Board in respect of GDS, or PDS it has commissioned from a GDS or PDS contractor and which that practitioner performs for that contractor under a contract of service or for services with that contractor;
    - (ii) in respect of Wales, means the relevant Local Health Board in respect of GDS, or PDS it has commissioned from a GDS or PDS contractor and which that practitioner performs for that contractor under a contract of service or for services with that contractor or as a foundation trainee.”;
- (c) at the appropriate place in the alphabetical order, insert—  
 ““Independent Provider” is to be construed in accordance with Schedule 2B;”;  
 “qualifying contract” means an NHS standard contract to which the Independent Provider is a party or an APMS contract the primary purpose of which is the provision of clinical NHS Health Care Services to which that Provider is a party;.

**Amendment of regulation B3**

4. After paragraph (8) of regulation B3 (restrictions on further participation in this Section of the scheme ), insert—

“(8A) This paragraph applies to a person who—

(a) at 1 April 2014—

(i) is on secondment from an employing authority to another body (which is not an employing authority);

- (ii) has nevertheless remained an employee of the employing authority under an arrangement by which it was the intention of the employing authority to retain that person as an employee (“a retention arrangement”), and
  - (iii) is performing services for that other body pursuant to a qualifying contract which, but for that retention arrangement, do not qualify as pensionable service;
- (b) on or after 1 April 2014—
- (i) is seconded from an employing authority to another body (which is not an employing authority);
  - (ii) during that secondment remains an employee of the employing authority under a retention arrangement, and
  - (iii) performs services for that other body pursuant to a qualifying contract which, but for that retention arrangement, would not qualify as pensionable service.

(8B) As from 1 April 2015, a person referred to in sub-paragraph (a) of paragraph (8A) may not contribute to or accrue pensionable service under this Section of the scheme in respect of the performance of any services under a contract referred to in paragraph (iii) of that sub-paragraph.

This is subject to paragraph (8C).

(8C) A person may, where the Secretary of State considers it appropriate to continue to accept that person as a member of this Section of the scheme having regard to the nature of the person’s employment with that other body and the circumstances under which it takes place, continue contribute to or accrue pensionable service under this Section of the scheme in respect of the performance of any services on or after 1 April 2015 under a contract referred to in paragraph (8A)(a)(iii).

(8D) A person referred to in paragraph (8A)(b) may not contribute to or accrue pensionable service under this Section of the scheme.

This is subject to paragraph (8E).

(8E) A person may, where the Secretary of State considers it appropriate to accept that person as a member of this Section of the scheme having regard to the nature of the person’s employment with that other body and the circumstances under which it takes place, contribute to or accrue pensionable service under this Section of the scheme.

(8F) Nothing in this regulation prevents the other body referred to in paragraph (8A) from applying for approval as an employing authority pursuant to Schedule 2B.”.

### **Amendment of regulation C1**

5. After paragraph (9) of regulation C1 (meaning of pensionable pay and final year’s pensionable pay), insert—

“(10) Where, having regard to the matters referred to in paragraph (11), the Secretary of State considers that the amount which would otherwise constitute the member’s final year’s pensionable pay is inordinate, the Secretary of State may, for the purposes of this regulation, determine what the amount of a member’s pensionable pay is to be.

(11) Those matters are—

- (a) any variations in the level of the member’s pay during a period not exceeding ten years and ending with the later of the date the member ceases to be in pensionable employment or the date the member dies;
- (b) the general level of pensionable pay pertaining in NHS employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);

- (c) promotion and re-grading prospects pertaining in NHS employment for members of the same or an equivalent grade or post;
- (d) any other matters the Secretary of State considers relevant.

(12) Where the Secretary of State determines the amount of a member’s pensionable pay pursuant to paragraph 10—

- (a) the difference between the amount which would, but for the determination pursuant to paragraph (10), be the member’s pensionable pay and the amount so determined pursuant to that paragraph, shall be ignored for the purposes of this regulation (“the ignored amount”);
- (b) any contributions referable to the ignored amount and paid by the member pursuant to regulation D1 or Q6, paragraphs 10 or 13A of Schedule 2 or Schedule 2B, shall, net of any tax payable, be refunded to that member;
- (c) any contributions referable to the ignored amount and paid by the employing authority pursuant to regulation D2 or paragraphs 10 or 23 of Schedule 2, or Schedule 2B, shall be refunded to that employing authority;
- (d) the amount so determined is not be regarded as an “excessive pay increase” for the purposes of regulation D3.”.

#### **Amendment of regulation D1**

6.—(1) Regulation D1 (contributions by members)(a) is amended as follows.

(2) In paragraph (1A), for “2013-2014” substitute “2014-2015”.

(3) For the table in paragraph (1A), substitute—

**“Scheme Year 2014-2015**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.6%
£21,388 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(4) In paragraph (1B), for “2013-2014” substitute “2014-2015”.

(5) For the table in paragraph (1B), substitute—

**“Scheme Year 2014-2015**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.6%
£21,388 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(6) For paragraph (6), substitute—

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(a) Reg.D1(1A)-(1B) substituted for reg.D1(1A) by National Health Service Pension Scheme (Amendment) Regulations 2013/1414, [regulation 3\(a\)](#).

“(6) Where an employing authority has failed to deduct contributions in accordance with paragraph (5), the Secretary of State may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member where the Secretary of State has notified the member of an intention to do so: this is without prejudice to any other method of recovery.”.

### **Amendment of regulation D2**

7.—(1) Regulation D2 (contributions by employing authorities) is amended as follows.

(2) After paragraph (7A) , insert—

“(7B) In the case of an employing authority which is an Independent Provider—

- (a) any additional contributions that are due to the Secretary of State under paragraph (3)(b),(c), (e) and (f) must be made within one month of the date on which that Provider is notified of that fact;
- (b) where a Provider fails to make the payment in accordance with paragraph (a), any entitlement to benefits under regulation E3A ceases.”.

(3) In paragraph (9)—

- (a) after “fails to pay or remit”, insert “, or has previously failed to pay or remit”;
- (b) after “these Regulations or”, insert “such liabilities as are specified by the Secretary of State under these Regulations or”.

### **New regulation D3**

8. After regulation D2 (contributions by employing authorities), insert—

#### **“D3 Further contributions by employing authorities in respect of excessive pay increases**

(1) This regulation applies where a member becomes entitled to a benefit in accordance with regulation E1, E2A, E3A, E3C, E5 or L1 and the Secretary of State determines that the member’s final year’s pensionable pay for any one or more of the member’s relevant years exceeds the allowable amount for that year.

(2) The relevant years are the member’s—

- (a) last year of pensionable employment, ending on the date the member ceases to be in such employment;
- (b) year of pensionable employment immediately preceding the year referred to in (a);
- (c) year of pensionable employment immediately preceding the year referred to in (b),
- (d) year of pensionable employment immediately preceding the year referred to in (c)

(3) The allowable amount is—

- (a) for the relevant years referred to in sub-paragraphs 2(a) to 2(c), the lower of—
  - (i) the member’s pensionable pay for that year, and
  - (ii) the allowable amount for the preceding relevant year increased by the lower of—
    - (aa) the aggregate of 4.5% and the percentage increase in the consumer prices index over the preceding twelve months, and
    - (bb) the percentage increase in the member’s pensionable pay for the relevant year compared with that in the preceding relevant year;
- (b) for the relevant year referred to in sub-paragraph 2(d), the member’s pensionable pay for that year.

(4) Where paragraph (1) applies, the member’s employing authority must pay, to the Secretary of State, an excess employer contribution which is determined as follows—

Step 1: find Amount A, which is the difference between the member's pensionable pay for the applicable relevant year and the maximum allowable amount for that year

Step 2: calculate Amount B, being the amount of the pension payable to the member as if the member's final year's pensionable pay consisted only of Amount A increased by an amount equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of that amount

Step 3: calculate Amount C, being the amount of the lump sum payable to the member as if the member's final year's pensionable pay consisted only of Amount A increased by an amount equal to any increases that would be due under the Pensions (Increase) Act 1971 on a lump sum of that amount

Step 4: multiply Amount B by the applicable factor to find Amount D

Step 5: add together Amount C and Amount D to find the amount of the excess employer contribution.

(5) The amount of the excess employer contribution determined under paragraph (4) is, unless the Secretary of State specifies otherwise, to be paid to the Secretary of State within 1 month of the Secretary of State notifying the employing authority of its liability for that amount.

(6) Where an employing authority fails to pay all, or any part, of the excess employer contribution in accordance with paragraph (5), regulation T9 applies in respect of that unpaid amount and to that end the Secretary of State is to give that authority a written notice ("a late payment notice") specifying—

- (a) the amount of the excess employer contribution that is unpaid;
- (b) the amount of interest due on the amount referred to in paragraph (a);
- (c) the amount of the administration charge arising from the late payment of the excess employer contribution; and
- (d) that the amounts in (a) to (c) are to be received by the Secretary of State within 1 month of the date of the notice.

(7) Where an employing authority fails to comply with a late payment notice, the Secretary of State may issue a further amended late payment notice.

(8) In any particular case the Secretary of State may direct that, for the purposes of this regulation, "employing authority" includes one or more of—

- (a) the transferee under a transfer of staff order pursuant to—
  - (i) in the case of England, section 28(4)(b) of, or paragraph 29(3) of Schedule 4 to, the 2006 Act;
  - (ii) in the case of Wales, section 22(4)(b) of, or paragraph 8 of Schedule 3 to, the 2006 (Wales) Act;
- (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority's business or functions.

(9) Where a member has pensionable employment with more than one employing authority during a relevant year, this regulation applies separately to each such employment.

(10) For the purposes of this regulation—

- (a) the pensionable pay to be taken into account by the Secretary of State for a relevant year or part of a relevant year is the pensionable pay for that period recorded in scheme year pension records provided to the Secretary of State in accordance with paragraph (5) of regulation U3;
- (b) where the member is in pensionable employment for less than 12 months in a relevant year, pensionable pay for that year means—

$$(\text{pensionable pay}/\text{number of days pensionable employment}) \times 365$$

- (c) no account is to be taken of increases in pensionable pay prior to 1 April 2014 or more than 1095 days prior to the member’s last day of pensionable employment,
- (d) the applicable factor is to be determined from time to time by the Secretary of State having considered the advice of the Scheme Actuary and having obtained the Treasury’s consent;
- (e) “consumer prices index” means the all items consumer prices index published by the Statistics Board of the UK Statistics Authority for the month of February immediately preceding a relevant year.
- (f) a benefit referred to in paragraph (1) means—
  - (i) in the case of regulation E2A, a benefit including the effects of any increase in pensionable service referred to in paragraph (4) of that regulation
  - (ii) in the case of regulation E5, a benefit including the effects of any reduction referred to in paragraph (2) of that regulation;
- (g) in the case of a member in part-time employment, this regulation is subject to regulation R5.”.

9. After sub-paragraph (c) of paragraph (2) of regulation E3A (early retirement pension (termination of employment by employing authority)), insert—

“(ca) where the member’s employing authority is an Independent Provider, that the Secretary of State has received the additional contributions referred to in regulation D2 in respect of that member;”.

#### **Amendment of regulation R1**

10. In paragraph (3) of regulation R1 (practitioners and specialist trainees in general practice), omit “the relevant”.

#### **Amendment of regulation T2A**

11.—(1) Regulation T2A (deduction of tax: further provisions) is amended as follows.

(2) In paragraph (7), for “transitional” substitute “fixed”.

(3) In paragraph (8A)—

(a) for “transitional” substitute “fixed”;

(b) after “to the 2011 Act” insert “or paragraph 1 of Schedule 22 to the Finance Act 2013”;

(c) in paragraph (a), after “Regulations 2011” insert “or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013”.

(4) After paragraph (8A), insert—

“(8B) If a person claiming a benefit under these Regulations intends to rely on entitlement to individual protection against a lifetime allowance charge in accordance with paragraph 1 of Schedule 1 to the Finance Act 2014, that person shall give to the scheme administrator—

(a) the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014 in respect of that entitlement; and

(b) the information referred to in paragraph (7).”.

(5) In paragraph (9), after “paragraph (8) insert “, (8A) or (8B)”.

(6) In paragraph (10), after “paragraph (8) insert “, (8A) or (8B)”.



### **Amendment of regulation T8**

12. Before sub-paragraph (a) of paragraph (4) of regulation T8 (interest on late payment of benefits), insert—

- “(za) in the case of a pension payable under regulation E3A, where the member’s employing authority is an Independent Provider, the later of—
  - (i) the date on which the Secretary of State receives the additional contributions referred to in regulation D2, or
  - (ii) the day immediately following that on which the member retires from pensionable employment.”.

### **New regulation T9**

13. After regulation T8 (interest on late payment of benefits), add—

#### **“T9 Interest and Administration Charges: Late paid contributions**

(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations D1, D2, D3, Q4, Q5, Q6, Q8, Q10, Q11, paragraph 10 or 23 of Schedule 2 or Schedule 2B, there is a “chargeable event”.

(2) Where there is a chargeable event, the Secretary of State may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions it has paid at such an event;
- (c) any other factors that the Secretary of State considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Secretary of State becomes aware of a chargeable event, the Secretary of State shall give the employing authority a written notice specifying—

- (a) the date of each chargeable event;
- (b) the amount of unpaid contributions constituting each such chargeable event;
- (c) the amount of interest at the standard rate payable in respect of each of those events;
- (d) the amount of administration charge payable in respect of each of those events;
- (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the Secretary of State considers the case to be exceptional and considers it appropriate for all, or part, of such an amount to be paid in instalments.

(6) Where the Secretary of State considers the case to be exceptional, nothing in the preceding paragraphs prevents the Secretary of State from waiving all or any part of the amount of interest, or all or any administration charges, payable.

(7) The standard rate of interest is to be determined by the Secretary of State from time to time having considered the advice of the Scheme Actuary and the Treasury.

(8) The standard rate of interest in respect of arrears in respect of the Scheme Year 2014-2015 and subsequent years is the rate of Consumer Prices Index for the month of February immediately preceding the Scheme Year in which the chargeable event arose plus 3 per cent compounded with monthly intervals.

(9) The Administration charge is to be determined by the Secretary of State from time to time.

(10) The Administration charge in respect of arrears in respect of the Scheme Year 2014-2015 and subsequent years is £100.

(11) In any particular case the Secretary of State may direct that, for the purposes of this regulation, “employing authority” includes one or more of—

- (a) the transferee under a transfer of staff order pursuant to—
  - (i) in the case of England, section 28(4)(b) of, or paragraph 29(3) of Schedule 4 to, the 2006 Act;
  - (ii) in the case of Wales, section 22(4)(b) of, or paragraph 8 of Schedule 3 to, the 2006 (Wales) Act;
- (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority’s business or functions.”.

### **Amendment of regulation U3**

**14.** For regulation U3 (accounts and actuarial reports), substitute—

#### **“Accounts and actuarial reports**

(1) The Secretary of State shall keep accounts of the scheme in a form approved by the Treasury.

(2) The accounts are to be open to examination by the Comptroller and Auditor General.

(3) In respect of a member, an employing authority must keep a record of all—

- (a) contributions paid under regulations D1, Q6 and Q8;
- (b) contributions due under regulations D1, Q6 and Q8 but unpaid;
- (c) contributions paid under regulation D2(1);
- (d) contributions due under regulation D2(1) but unpaid;
- (e) hours, half-days or sessions constituting part-time pensionable employment for the purposes of regulation R5;
- (f) pensionable pay;
- (g) absences from work referred to in regulations P1 and P2;
- (h) commencement and termination of pensionable employment;
- (i) reason for termination of pensionable employment.

(4) That record is to be in a manner approved by the Secretary of State.

(5) Except where the Secretary of State waives such requirement, an employing authority must provide a statement in respect of the matters referred to in paragraph (3) in respect of all scheme members to the Secretary of State within 2 calendar months of the end of each scheme year.

(6) Where an employing authority has provided the information in accordance with paragraph (5) and there is then a change to any of the information provided, that employing authority must, within 1 month of the change, provide the Secretary of State with the revised information.

(7) In respect of each scheme year an employing authority shall, within 2 months of a request and in a manner prescribed by the Secretary of State, provide the Secretary of State

with the total contributions paid for all scheme members under regulations D1, D2(1) Q6 and Q8.

(8) Where an employing authority has provided the information requested at paragraph (7) and there is a revision to the total contributions paid, that employing authority must, within 1 month of the change, provide the Secretary of State with the revised total.

(9) In respect of each scheme year an employing authority shall, 1 month before the beginning of that scheme year, and in a manner prescribed the Secretary of State, provide the Secretary of State with a statement of estimated total contributions.”.

## **Amendment of Schedule 2**

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

(2) In paragraph 1 (additional definitions used in this Schedule) in paragraph (e) of the definition of “locum practitioner”, before “Local Health Board” insert “a”.

(3) In paragraph 2, in sub-paragraph (2) after “locum practitioner”, insert “: this is subject to sub-paragraph (16) of paragraph 23”.

(4) In paragraph 3 (meaning of “pensionable earnings”)—

(a) for sub-paragraph (2), substitute—

“(2) Subject to sub-paragraph (3), For the purposes of this paragraph “practitioner income” means as regards type 1 medical practitioners—

(a) payments made to such a person—

- (i) pursuant to a GMS contract, a PMS agreement or an APMS contract;
- (ii) in respect of the performance of certification services, commissioned services or collaborative services where the practitioner is a GMS practice, a PMS practice or an APMS contractor; this also applies to such payments received from such a practitioner;
- (iii) in respect of the provision of primary medical services under, in the case of England, section 83(2)(a) of the 2006 Act or, in the case of Wales, section 41(2)(a) of the 2006 (Wales) Act where such a person has been engaged by a Local Health Board to assist in the provision of such services;
- (iv) in respect of the provision of locum services;
- (v) in respect of the performance of primary medical services, commissioned services, collaborative services, NHS 111 services and certification services where those payments are made by an OOH provider or other employing authority providing OOH services;
- (vi) in respect of primary dental services, general ophthalmic services or pharmaceutical services;
- (vii) in respect of practice-based work carried out in educating or training, or organising the education or training of, medical students or practitioners;
- (viii) in respect of the provision of primary medical services where such a person has been engaged by a clinical commissioning group to assist in the provision of such services;”;

(b) in sub-paragraph (2C) after paragraph (a), insert—

“(aa) a dental trainers grant;”;

(5) In paragraph 5 (elections relating to calculation of “pensionable earnings” in medical partnerships), omit sub-paragraph (5).

(6) In sub-paragraph (1)(a) and (2) of paragraph 6 (meaning of “pensionable earnings” in relation to other practitioners), omit “or for overtime”.

(7) Paragraph 10 (contributions to this section of the scheme) is amended as follows—

(a) for sub-paragraph for sub-paragraph (1A)(a) substitute—

“(1A) For the purposes of this paragraph, the “relevant table” means—

- (a) in respect of the 2013-2014 scheme year, table 1;
- (b) in respect of the 2014-2015 scheme year, table 2.

**Table 1**

**Scheme Year 2013-2014**

<i>Column 1</i> <i>Pensionable earnings band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.3%
£21,388 to £26,823	6.8%
£26,824 to £49,472	9%
£49,473 to £70,630	11.3%
£70,631 to £111,376	12.3%
£111,377 to any higher amount	13.3%

**Table 2**

**Scheme Year 2014-2015**

<i>Column 1</i> <i>Pensionable earnings band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.6%
£21,388 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(b) for sub-paragraph (7), substitute-

“(7) Where—

- (a) the type 1 medical practitioner is a shareholder or partner in more than one employing authority referred to in sub-paragraph (6), each such employing authority shall pay D2(1) contributions on any pensionable earnings it pays to that practitioner or, as the case may be, on the practitioner’s share of the partnership profits, to the host Trust or Board;
- (b) the non-GP provider is a shareholder or partner in more than one employing authority referred to in sub-paragraph (6), that non-GP provider must nominate one of those employing authorities and that nominated authority must pay D2(1) contributions on any pensionable earnings it pays to that non-GP provider or, as the case may be, on the non-GP provider’s share of the partnership profits, to the host Board;”;

(c) in sub-paragraph (17), in—

- (i) paragraph (a), for “D1 contributions” substitute “contributions payable pursuant to regulations D1, Q4, Q5, Q6, Q8 and Q10 or paragraph 20 of this Schedule”;

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(a) Relevant amendments are in S.I. 2006/600, regulation 21(1), (10)(a) to (d), (10)(g)(i) and (ii), (h) and (i), S.I. 2008/2263, regulation 22(1), (8)(c), S.I. 2009/381, regulation 13(1), (2), S.I. 2010/1634, regulations 2, 7(1), (3), (4), S.I. 2011/2586, regulations 2, 12(1), (5)(a), (b) and S.I 2013/1414, regulation 4.

- (ii) paragraph (c) for “D1 contributions”, substitute “or pay to the Secretary of State contributions pursuant to regulations D1, Q4, Q5, Q6, Q8 and Q10 or paragraph 20 of this Schedule”;
  - (d) in sub-paragraph (17A), in paragraph (b) for “such a deduction must be to the member’s advantage and is subject to the member’s consent.” substitute “such a deduction may only be made where the Secretary of State has notified the member of an intention to do so.”;
  - (e) after sub-paragraph (17B), insert—
    - “(17C) Notwithstanding regulation R1(1) and (2), contributions payable by an employing authority in respect of a GP Provider or non-GP Provider under these Regulations and any administration charge or interest under regulation T9 attaches to them, are not payable by the NHS Commissioning Board or a relevant Local Health Board but are payable by—
      - (a) that GP Provider or non-GP Provider, or
      - (b) a partnership referred to in paragraphs (4) that includes that GP Provider or non-GP Provider.”;
  - (8) in paragraph 23 (accounts and actuarial reports)—
    - (a) in sub-paragraphs (2) and (3), after “certificate” insert “that correctly records the totality”;
    - (b) for sub-paragraph (16), substitute—
      - “(16) A member’s pensionable earnings for a scheme year shall be zero and no contributions paid in respect of that scheme year are to be refunded where, in respect of that scheme year, a practitioner or non-GP Provider has failed to comply with the requirements of—
        - (a) whichever of sub-paragraphs (2), (3), (5), (6) or (7) applies to that member, or
        - (b) sub-paragraph (2) of paragraph 2.
- This is subject to sub-paragraphs (17) and (18).”.

**New Schedule 2B**

**16.** After Schedule 2A (pension sharing on divorce or nullity of marriage or on dissolution or nullity of a civil partnership), insert—

**“Schedule (2B)**

**Independent Providers**

**1.** In this Schedule—

- “75% threshold” means 75% of the total gross amounts payable in a scheme year to an Independent Provider by the NHS Commissioning Board in respect of all the qualifying contracts that Provider is a party to;
- “closed approval” shall be construed in accordance with paragraph 4(f)(i);
- “contribution guarantee” shall be construed in accordance with paragraphs 11 to 17;
- “independent provider” is to be construed in accordance with paragraph 2;
- “NHS standard contract” means the standard commissioning contract 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;
- “open approval” is to be construed in accordance with paragraph 4(f)(ii);
- “qualifying contract” means an NHS standard contract to which the Independent Provider is a party or an APMS contract the primary purpose of which is the provision of clinical NHS Health Care Services to which that Provider is a party;
- “wholly or mainly condition” is to be construed in accordance with paragraph 3.

2. An “Independent Provider” means a person or body that employs an individual under a contract of service and which—

- (a) is not otherwise an employing authority in respect of that employee;
- (b) is a party to a qualifying contract;
- (c) has been granted employing authority status for the purposes of this Section of the Scheme by the Secretary of State following a written application made by it to the Secretary of State for that purpose (“an approval application”) whether or not the application was for such approval on an open or closed approval basis; and
- (d) has, as a condition of that approval, arranged a contribution guarantee which guarantees payment to the Secretary of State of its contribution liability under this Section of the Scheme.

3. The “wholly or mainly condition”—

- (a) requires that any employee of an Independent Provider performing services pursuant to a qualifying contract, does so if not for the whole of their time in that employment then for more than 50% of that time;
- (b) is to be assessed over each scheme year or part of a scheme year where the services referred to in sub-paragraphs (a) and (b) commence or cease part way through such a year.

### **Approval Applications**

4. An approval application must—

- (a) be made in respect of all qualifying contracts an Independent Provider is a party to at the time of making it
- (b) be in writing;
- (c) be in a form that the Secretary of State may from time to time require;
- (d) contain a declaration that any employee of an Independent Provider who is engaged in performing services pursuant to a qualifying contract satisfies the wholly or mainly condition;
- (e) contain a declaration that the Independent Provider is not already an employing authority in respect of any employee referred to in paragraph (d) for the purposes of this Section of the Scheme;
- (f) confirm that employing authority status is sought in respect of any employee of the Independent Provider who is not covered by a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 and—
  - (i) 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 (closed approval), or
  - (ii) who had not, within the last twelve months, been in such an employment (open approval);
- (g) specify each qualifying contract in respect of which employing authority status is sought;
- (h) provide such details of a contribution guarantee as the Secretary of State may from time to time require”;
- (i) provide an estimate, for the Scheme year in respect of which approval (if given) is to take effect, of—

- (i) the gross amounts the Provider anticipates receiving from the NHS Commissioning Board in respect of the clinical services it is to provide under every relevant qualifying contract;
- (ii) the number of employees who will be engaged in performing services pursuant to a qualifying contract and who will satisfy the wholly or mainly condition;
- (iii) the total pensionable pay of those employees referred to in paragraph (ii);
- (iv) total member contributions payable by those employees pursuant to regulation D1 (broken down to correspond to the tiers tabulated in that regulation), Q6, Q8 or Q10;
- (v) total employer contributions payable in respect of those employees pursuant to regulation D2 and Q11;
- (vi) total number of employees who, although engaged in providing services in connection pursuant to a qualifying contract, will not satisfy the wholly or mainly condition;
- (vii) total number of employees who would satisfy the wholly or mainly condition and who are engaged in performing services pursuant to a qualifying contract but who are otherwise not eligible to be members of this section of the Scheme.

**5.** An approval application may specify the date from which approval by the Secretary of State (if granted) is to have effect (“the nominated date”).

**6.** Where the Secretary of State is satisfied that the Independent Provider will satisfy the matters set out in paragraph 4 at that nominated date, approval shall take effect from that date provided it is later than the date on which approval is granted.

**7.** If an approval application does not specify a nominated date, approval shall take effect from that date it is granted.

**8.** Where an Independent Provider has applied for and been granted employing authority status any of its employees engaged in performing services pursuant to any qualifying contract in respect of which approval was granted and who satisfies the wholly or mainly condition shall become an officer member of this Section of the Scheme: this applies equally to any such employee who would, if otherwise a member of this Section of the Scheme, be subject to Schedule 2 of these Regulations.

**9.** Where an Independent Provider which has been granted employing authority status subsequently enters into another qualifying contract, it must make a written application under paragraph 4 within 14 days of that subsequent contract taking effect.

**10.** Where an Independent Provider does make such an application in respect of a subsequent qualifying contract and that contract would have the effect of increasing the Independent Provider’s estimated contribution liability arising under regulations D1, D2, Q6, Q8, Q10 and Q11 by 10% or more on the date on which approval in respect of that contract takes effect, the Provider must either increase the sum already guaranteed by its contribution guarantee or provide the Secretary of State with a further contribution guarantee guaranteeing payment of a sum equal to the increased potential contribution liability.

### **Contribution Guarantees**

**11.** A contribution guarantee (whether a first guarantee, subsequent guarantee or a combination thereof) must—

- (a) as the case requires, guarantee payment to the Secretary of State of a sum equal to between 100% and 110% of 3/12ths of a reasonable estimate of the Independent Provider’s total annual contribution liability in respect of all of its qualifying

contracts (“the required level of cover”) arising under regulations D1, D2, Q6, Q8, Q10 and Q11;

- (b) begin with the date on which the Independent Provider’s approval takes effect;
- (c) be in a form approved by the Secretary of State from time to time;
- (d) be underwritten by one or more bodies satisfactory to the Secretary of State.

**12.** In order to ensure that a contribution guarantee continues to guarantee the required level of cover, the Independent Provider must review it—

- (a) no later than 1 month prior to the start of each Scheme year;
- (b) no later than 1 month after the date on which it was granted employing authority status;
- (c) no later than 1 month before the date on which it is expressed to cease to have effect (where that is not the start of a Scheme year);
- (d) whenever it becomes a party to another qualifying contract;
- (e) immediately whenever the Independent Provider reasonably believes that its estimated contribution liability pursuant to regulations D1, D2, Q6, Q8, Q10 and Q11 has increased, or may increase, by more than 10%;
- (f) upon the Secretary of State notifying it in writing that the Secretary of State considers that the sum guaranteed by the contribution guarantee does not, at least, equal the required level of cover.

**13.** Where paragraph 12 applies, and the Independent Provider determines or is advised by the Secretary of State, that the amount of cover currently provided by all of its extant contribution guarantees does not equal the required level of cover in respect of its qualifying contracts, within 14 days of that determination or advice it must either—

- (a) increase the amount of cover provided by its guarantees so that it is at least equal to the required level of cover and notify the Secretary of State in writing of it having done so; or
- (b) take out a further contribution guarantee for the amount by which the level of cover has increased and notify the Secretary of State in writing of it having done so.

**14.** Where paragraph 13 applies, and the Independent Provider determines that the amount of cover currently provided by its guarantees remains at least equal to the required level of cover in respect of all of its qualifying contracts, it shall—

- (a) notify the Secretary of State in writing of that fact within 14 days of its determination, and
- (b) provide the Secretary of State with such information in that regard as the Secretary of State may require from time to time.

**15.** Where, during the term of any contribution guarantee, the Secretary of State fails to receive from the Independent Provider all of the contributions due under regulations D1, D2, Q6, Q8, Q10 and Q11 on the date on which they are due to be paid, the Secretary of State is to issue a default notice to the Provider comprising—

- (a) a notice referred to in regulation T9(3),
- (b) a notice terminating the Provider’s employing authority status.

**16.** A notice referred to in paragraph 15(b) must be in writing and must notify the Independent Provider that its status as an employing authority is to cease on the day following the end of the second calendar month following the month for which the contributions were due but not paid.



17. Where an Independent Provider's employing authority status is terminated, its employees who are, or who are eligible to, members of this section of the scheme cease to be or to be eligible to be members on the date of that termination.

**Pension Returns.**

18. An Independent Provider must, in writing and in such form as the Secretary of State may from time to time require, provide the Secretary of State with the information referred on in paragraph 19—

- (a) within two calendar months of the end of each financial year; and
- (b) within two calendar months of the date of its termination, or withdrawal, of participation in this Section of the Scheme.

19. That information is—

- (a) a complete list of all qualifying contracts to which the Independent Provider is or has been a party over the relevant period;
- (b) the total gross amounts payable to the Independent Provider by the NHS Commissioning Board in respect of such contracts over the relevant period;
- (c) whether, as the case may be, the Independent Provider has been granted approval as an employing authority on an open or closed approval basis;
- (d) whether the Independent Provider changed its approval status and, if so, when;
- (e) the total gross amounts the Independent Provider has received from the NHS Commissioning Board in respect of all of its qualifying contracts over the relevant period;
- (f) the amount guaranteed under the Independent Provider's contribution guarantee;
- (g) the number of employees who will be engaged in performing services pursuant to a qualifying contract who will satisfy the wholly or mainly condition;
- (h) the total pensionable earnings of those employees;
- (i) total employee contributions payable by those employees pursuant to regulation D1 (broken down to correspond to the tiers tabulated in that regulation), Q6, Q8 or Q10;
- (j) total employer contributions payable in respect of those employees pursuant to all or any of regulations D2 and Q11;
- (k) total number of employees who, although engaged in providing services pursuant to a qualifying contract, will not satisfy the wholly or mainly condition;
- (l) confirmation that those of its employees who have become officer members of the scheme continue to satisfy the wholly or mainly condition;
- (m) total number of employees who would satisfy the wholly or mainly condition and who are engaged in performing services pursuant to a qualifying contract but who are otherwise not eligible to be members of this section of the Scheme;
- (n) total amount of pensionable earnings of employees satisfying wholly or mainly condition compared to the total gross amounts payable to the Independent Provider by the NHS Commissioning Board in respect of all of its qualifying contracts: that amount to be expressed as a percentage;
- (o) where the percentage referred to in (n) exceeds 75% ("the 75% threshold"), an explanation for that.

20. Where, following a consideration of the information supplied under paragraph 19, and information, as the case may be—

- (a) originally supplied pursuant to an application for approval under paragraph 4;
- (b) supplied pursuant to paragraph 22,

the Secretary of State considers further explanation or information is necessary for the Secretary of State to assess compliance with these Regulations, the Independent Provider must provide that information upon the Secretary's written request and within the period specified in that request.

**21.** Where any employee of an Independent Provider who became an officer member of this Section of the Scheme pursuant to paragraph 8 ceases to satisfy the wholly or mainly condition or any other condition relating to membership of this section of the scheme, the Independent Provider must inform that employee that the employee's membership of this Section of the Scheme has come to an end on that date and notify the Secretary of State in writing of that fact.

**22.** In order to assess whether the grant of employing authority status to an Independent Provider should continue (whether following a notification under paragraph 21 or otherwise), the Secretary of State may at any time require an Independent Provider to provide the Secretary of State with information—

- (a) relating to those employed by it who have become officer members of this Section of the Scheme following its approval as an employing authority;
- (b) relating to all or any qualifying contracts it has entered into in respect of which employing authority status was granted;
- (c) relating to the numbers of persons engaged in performing services pursuant to such contracts and of the proportion of their time spent in doing so;
- (d) which the Secretary of State considers relevant for that purpose.

**23.** Information referred to in paragraph 22 must be provided within 14 days of the Secretary of State requesting it.

### **Change in approval basis**

**24.** An Independent Provider which was granted employing authority status on an open approval basis (see paragraph 4(f)(ii)) can modify its participation in this Section of the Scheme as an employing authority, by giving the Secretary of State notice ("a modification notice") stating that it wishes its status as an employing authority under paragraph (o) of the definition of an employing authority in regulation A2, to cease to apply on an open approval basis and thereafter to continue on a closed approval basis (see paragraph 4(f)(i)).

**25.** An Independent Provider may not give a modification notice that affects any person who has become an officer member of this Section of the Scheme by virtue of paragraph 8 unless that person gives the Independent Provider written consent to that happening.

**26.** Subject to paragraph 25, the date on which a modification of the Independent Providers status as an employing authority in this Section of the Scheme takes effect ("the operative modification date"), cannot fall within the period of 6 months commencing with the date of the modification notice ("the modification period").

**27.** A modification notice must—

- (a) be in writing; and
- (b) be accompanied by evidence of the consent of the persons referred to in paragraph 25 to the giving of that notice: such a notice has no effect in respect of such a person who has not given such consent.

**28.** A modification notice is effective in respect of all qualifying contracts in respect of which the Independent Provider was granted employing authority status on an open approval basis.

**29.** A person who could, but for a modification notice, have become entitled to participate in this Section of the Scheme by virtue of satisfying paragraph 4(f)(ii) (open approval)

during the modification period, will continue to be so entitled during that period: at the end of that period, such a person can no longer become entitled to participate in the scheme on an open approval basis.

This is subject to paragraph 30.

**30.** Nothing in paragraph 29 prevents a person referred to in that paragraph from becoming such a member by virtue of their employment with some other employing authority.

**31.** During the modification period, a person who was eligible to become an officer member of this Section of the Scheme in accordance with paragraph 8 but who did not do so by virtue of opting out in accordance with regulation B4, may, in accordance with paragraph (5) of that regulation, join or re-join this Section of the Scheme.

**32.** An Independent Provider that has previously modified its participation in this Section of the Scheme or applied for and was granted employing authority status on a closed approval basis may apply for approval on an open approval basis pursuant to this Schedule. This is subject to paragraph 35.

**33.** An application referred to in paragraph 32 must specify the date (“the nomination date”) from which the change to open approval is sought: the nominated date must not be less than 3 months from the date the application is received by the Secretary of State.

**34.** Where the Secretary of State is satisfied that the Independent provider will, at the nominated date, satisfy the matters set out in paragraph (4) approval is to take effect from that date.

**35.** An application referred to in paragraph 32 must specify that approval on an open approval basis is sought in respect of all employees of the Independent Provider engaged in the performance of services pursuant to a qualifying contract at the date on which approval is granted provided always that such persons satisfy the wholly or mainly condition and regardless of whether they were so engaged at the date of any earlier approval or have been so engaged since the operative withdrawal date (or the latest of them if there is more than one).

### **75% Pensionable Pay Threshold and Contribution Surcharge**

**36.** In any scheme year, the maximum proportion of the gross amounts payable to an Independent Provider in respect of its qualifying contracts that may be paid to its employees who are members of this section of the scheme without it incurring an employer contribution surcharge, is 75% (“the 75% threshold”).

**37.** Where the 75% threshold is exceeded, the whole of the pay an employee of the Independent Provider receives in respect of the performance of services under or in connection with a qualifying contract is nevertheless to count both for the purpose of ascertaining that person’s entitlement to benefits under these Regulations and for the purpose of calculating them.

**38.** Where the 75% threshold is exceeded, the Independent Provider is liable to pay the Secretary of State an employer contribution surcharge in respect of the total pensionable pay of its employees that is in excess of that threshold.

**39.** The rate of the employer contribution surcharge is to be determined by the Secretary of State from time to time having had regard to the advice of the Scheme Actuary and the Treasury.

**40.** The Secretary may, where satisfied that the Independent Provider has provided a reasonable explanation or justification for the 75% threshold being exceeded, require the Independent Provider to a pay an employer contribution surcharge on such part of that

excess as the Secretary of State considers reasonable having regard to its declared income, profits, losses and expenses for the scheme year in question.

41. The Secretary of State can require the Independent Provider to provide such information as the Secretary of State considers necessary to determine whether there has been compliance with any provision of these Regulations.

42. Where the Secretary of State is not satisfied with any explanation or justification provided by the Independent Provider pursuant to paragraph 40 or the information provided by it pursuant to paragraph 37, the Secretary of State may treat all or any part of the of the total pensionable pay of that Provider's employees in excess of the 75% threshold as attracting the employer contribution surcharge.

43. Where the employer contribution surcharge has been imposed on all or part of the excess in accordance with paragraph 42 and the Secretary of State subsequently considers that all or part of it should no longer attract the surcharge, the Secretary of State shall notify the Independent Provider of what part of the excess is subject to an employer contribution surcharge.

44. Where a contributions surcharge is due, the Independent Provider must pay contributions at the rate specified in paragraph 39 to the Secretary of State within 1 month (beginning with the date of that notice) of being notified by the Secretary of State that such contributions are payable ("a contribution surcharge notice").

45. Where an Independent Provider fails to pay an employer contribution surcharge pursuant to a contribution surcharge notice, it shall be liable to pay the administration charge and interest referred to in regulation T9: interest is to continue to accrue on the late paid surcharge for so long as it remains unpaid and further administration charges may be levied in respect of it.

46. Nothing in the preceding paragraphs prevents the Secretary of State from waiving all or any part of a sum payable by way of interest or administration charges

#### **Termination of employing authority status by Secretary of State**

47. The Secretary of State must terminate an Independent Provider's status as an employing authority where that Independent Provider is no longer a party to any qualifying contract.

48. The Secretary of State may terminate an Independent Provider's status as an employing authority in any of the following circumstances—

- (a) where the Independent Provider subsequently acquires the status of an employing authority specified in any of the paragraphs, other than paragraph (o), of the definition of "employing authority" in regulation A2: in such a case the Independent Provider ceases to be an employing authority as an Independent Provider but not by virtue of whichever of those paragraphs applies to it;
- (b) where all of the employees of the Independent Provider who have acquired membership of this Section of the Scheme pursuant to paragraph 8 cease to satisfy the wholly or mainly condition;
- (c) the Independent Provider fails to review, in accordance with paragraph 12, the amount of cover guaranteed by its contribution guarantee or, having carried out such a review (whether pursuant to a contribution default notice or otherwise), fails to increase the amount of cover guaranteed by the contribution guarantee where such an increase is required;
- (d) where, following a contribution default notice, the Independent Provider fails to pay to the Secretary of State the amount specified in that notice by the date specified in paragraph 16;

- (e) where paragraph 13 applies and the Independent Provider fails to take the action required by paragraph (a) and (b) within the specified period;
- (f) where the Independent Provider has failed to notify the Secretary of State that it ceases to satisfy the provisions of paragraph 11;
- (g) where an Independent Provider fails to provide the evidence referred to in paragraph 20;
- (h) where the Secretary of State is not satisfied that the information provided by an Independent Provider pursuant to paragraph 22 supports the continuation of the Independent Provider's status as an employing authority;
- (i) where an Independent Provider fails to notify the Secretary of State that the guarantor of its contribution guarantee has withdrawn or revoked that bond;
- (j) where an Independent Provider has in any three years in a five year period exceeded the 75% threshold or has a pattern of doing so.

**49.** Where the Secretary of State determines that an Independent Provider's status as an employing authority must be terminated in accordance with paragraph 47 or 48, the Secretary of State is to give that Provider, as soon as reasonably practicable, written notice of that fact and the date from which termination takes effect.

**50.** Where an Independent Provider's employing authority status is so terminated, its employees who are, or who were eligible to be, members of this Section of the Scheme, cease to be such members or eligible to be such members on the date of that termination.

#### **Withdrawal of participation in this Section of the Scheme**

**51.** An Independent Provider can withdraw from participation in this Section of the Scheme as an employing authority, by giving the Secretary of State notice ("a withdrawal notice") stating that it wishes its status as an employing authority under paragraph (o) of the definition of an employing authority in regulation A2, to cease.

**52.** An Independent Provider may not give a withdrawal notice that affects any person who has become an officer member of this Section of the Scheme by virtue of paragraph 8 unless that person gives the Independent Provider written consent to that happening.

**531.** The date on which withdrawal from this Section of the Scheme takes effect ("the operative withdrawal date"), cannot fall within the period of 6 months commencing with the date of the withdrawal notice ("the withdrawal period").

**54.** A withdrawal notice must—

- (a) be in writing; and
- (b) be accompanied by evidence of the consent of the persons referred to in paragraph 52 to the giving of that notice: such a notice has no effect in respect of such a person who has not given such consent.

**55.** A withdrawal notice is effective in respect of all qualifying contracts in respect of which the Independent Provider was granted employing authority status.

**56.** Where paragraph 54 is satisfied, the persons referred to in that paragraph cease to be officer members of this Section of the Scheme in respect of their employment with that Independent Provider on the operative withdrawal date.

**57.** Persons who could, but for a withdrawal notice, have become entitled to participate in this Section of the Scheme by virtue of satisfying paragraph 8 during the withdrawal period, will continue to be entitled to become members of this Section of the Scheme: at the end of that period, such a person can no longer become entitled to participate in this Section of the Scheme.

This is subject to paragraph 58.

**58.** Nothing in paragraph 57 prevents a person referred to in that paragraph from becoming such a member by virtue of their employment with some other employing authority.

**59.** During the withdrawal period, a person who was eligible to become an officer member of this Section of the Scheme in accordance with paragraph 8 but who did not do so by virtue of opting out in accordance with regulation B4, may, in accordance with paragraph (5) of that regulation, join or re-join this Section of the Scheme.

**60.** An Independent Provider that has withdrawn from participation in this Section of the Scheme, may apply for approval as an employing authority pursuant to this Schedule. This is subject to paragraph 61.

**61.** An application referred to in paragraph 60 must specify that approval is sought in respect of all persons the Independent Provider engages pursuant to a contract of service to perform services pursuant to any qualifying contracts at the date on which approval is granted provided always that such persons satisfy the wholly or mainly condition regardless of whether they were so engaged at the date of any earlier approval or have been so engaged since the operative withdrawal date (or the latest of them if there is more than one).”.

## PART 3

### Amendment of the National Health Service Pension Scheme Regulations 2008

#### Interpretation of Part 2

**17.** In this Part, an alphanumerical reference to a regulation or a reference to a Schedule is a reference to a provision of the National Health Service Pension Scheme regulations 2008 bearing that designation.

#### Amendment of regulation 1.B.3

**18.—**(1) Regulation 1.B.3 (provision of information relevant for tax purposes) is amended as follows.

- (2) In paragraph (3A) of regulation 1.B.3 (provision of information relevant for tax purposes)—
- (a) for “transitional”, substitute “fixed”;
  - (b) after “to the 2011 Act” insert “or paragraph 1 of Schedule 22 to the Finance Act 2013”;
  - (c) in paragraph (a), after “Regulations 2011” insert “or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013”.
- (3) After paragraph (3A) insert—
- “(3B) If a person applying for a benefit under this Section of the Scheme intends to rely on entitlement to individual protection against a lifetime allowance in accordance with paragraph 1 of Schedule 1 to the Finance Act 2014, that person must give to the Scheme administrator the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014 in respect of that entitlement.”.

#### Amendment of regulation 2.A.1

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

- (a) in paragraph (2)—
  - (i) in the definition of “employing authority”, after paragraph (p) add—

- “(q) an Independent Provider”;
- (ii) omit the definition of “host Board”;
- (b) at the appropriate place in the alphabetical order—
- (i) in paragraph (1), insert—
- ““75% threshold” means 75% of the total gross amounts payable in a scheme year to an Independent Provider by the NHS Commissioning Board in respect of all the qualifying contracts that Provider is a party to;
- “closed approval” shall be construed in accordance with regulation 2.M.2(1)(f)(i);”;
- (ii) in paragraph (2), insert—
- ““contribution guarantee” shall be construed in accordance with regulation 2.M.3;
- “independent provider” is to be construed in accordance with regulation 2.M.1;
- “NHS standard contract” means the standard commissioning contract 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;
- “open approval” is to be construed in accordance with regulation 2.M.2(1)(f)(ii);
- “qualifying contract” means an NHS standard contract to which the Independent Provider is a party or an APMS contract the primary purpose of which is the provision of clinical NHS Health Care Services to which that Provider is a party;
- “wholly or mainly condition” is to be construed in accordance with regulation 2.M.1(2);”;
- (c) after paragraph (2), insert—
- “(2A) In these Regulations—
- (a) “host Board” means—
- (i) in respect of a non-GP provider who is a partner in a partnership that has entered into a PMS agreement for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with whom that Provider has entered into such an agreement;
- (ii) in respect of a non-GP provider who is a partner in a partnership that has entered into a GMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that partnership has entered into such an agreement;
- (iii) in respect of a non-GP provider who is a partner in a partnership that is an APMS contractor which has entered into an APMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that partnership has entered into such a contract;
- (iv) in respect of a non-GP provider who is a shareholder in a company limited by shares that is a GMS practice or a PMS practice or an APMS contractor which has entered into a GMS contract, PMS agreement or APMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that company has entered into such an agreement or contract;
- (v) in respect of a non-GP provider who is an individual who is a GMS practice or a PMS practice or an APMS contractor, means the National Health Service Commissioning Board or each Local Health Board with which that practice or contractor has entered into an agreement or contract as such a practice or contractor;

- (vi) in respect of a type 1 medical practitioner, means the National Health Service Commissioning Board or each Local Health Board with whom the practitioner has contracted, or entered into an agreement, to provide GMS, PMS or APMS;
- (b) a person referred to in sub-paragraph (a) is deemed to be employed by the appropriate Board, except where—
  - (i) regulation 2.C.5(7) or (8) applies, or
  - (ii) contributions payable by an employing authority in respect of a non-GP Provider: in such a case those contributions and any administration charge or interest under regulation 2.J.9A which attaches to them, are not payable by the NHS Commissioning Board or a relevant Local Health Board but are payable by that GP Provider or a partnership referred to in paragraphs (7) of regulation 2.A.8 that includes that non-GP Provider.”.

**New regulation 2.A.12A**

20. After regulation 2.A.12 (restriction on pensionable pay used for calculating benefits in respect of capped transferred-in service), insert—

**“2.A.12A Restriction of reckonable pay where the Secretary of State considers the amount is inordinate**

(1) Where, having regard to the matters referred to in paragraph (2), the Secretary of State considers that the amount which would otherwise constitute the member’s interim reckonable pay for the purposes of regulation 2.A.10 is inordinate, the Secretary of State may, for the purposes of this regulation, determine what the amount of a member’s interim reckonable pay is to be.

(2) Those matters are—

- (a) any variations in the level of the member’s pay during a period not exceeding ten years and ending with the later of the date the member ceases to be in pensionable employment or the date the member dies;
- (b) the general level of pensionable pay pertaining in NHS employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of paragraph (a);
- (c) promotion and re-grading prospects pertaining in NHS employment for members of the same or an equivalent grade or post;
- (d) any other matters the Secretary of State considers relevant.

(3) Where the Secretary of State determines the amount of a member’s pensionable pay pursuant to paragraph (1)—

- (a) the difference between the amount which would, but for the determination pursuant to paragraph (1), be the member’s interim reckonable pay and the amount so determined pursuant to that paragraph and adjusted for the purposes of regulation 2.A.11, shall be ignored for the purposes of this regulation (“the ignored amount”);
- (b) any contributions referable to the ignored amount and paid by the member pursuant to regulation 2.C.1 shall, net of any tax payable, be refunded to that member;
- (c) any contributions referable to the ignored amount and paid by the employing authority pursuant to regulation 2.C.5 are to be refunded to that employing authority.”.



### **Amendment of regulation 2.B.1**

**21.** In paragraph (3) of regulation 2.B.1 (eligibility: general) for sub-paragraph (b), substitute—

“(b) entered NHS employment before that date and whether or not that person was, on that date, an active member of the 1995 Section in that employment or any other NHS employment.”.

### **Amendment of regulation 2.B.2**

**22.** After paragraph (13) of regulation 2.B.2 (restrictions on eligibility: general), insert—

“(13A) This paragraph applies to a person who—

- (a) at 1 April 2014—
  - (i) is on secondment from an employing authority to another body (which is not an employing authority);
  - (ii) has nevertheless remained an employee of the employing authority under an arrangement by which it was the intention of the employing authority to retain that person as an employee (“a retention arrangement”), and
  - (iii) is performing services for that other body pursuant to a qualifying contract which, but for that retention arrangement, do not qualify as pensionable service;
- (b) on or after 1 April 2014—
  - (i) is seconded from an employing authority to another body (which is not an employing authority);
  - (ii) during that secondment remains an employee of the employing authority under a retention arrangement, and
  - (iii) performs services for that other body pursuant to a qualifying contract which, but for that retention arrangement, would not qualify as pensionable service.

(13B) As from 1 April 2015, a person referred to in sub-paragraph (a) of paragraph (13A) may not contribute to or accrue pensionable service under this Section of the scheme in respect of the performance of any services under a contract referred to in paragraph (iii) of that sub-paragraph.

This is subject to paragraph (13C).

(13C) A person may, where the Secretary of State considers it appropriate to continue to accept that person as a member of this Section of the scheme having regard to the nature of the person’s employment with that other body and the circumstances under which it takes place, continue contribute to or accrue pensionable service under this Section of the scheme in respect of the performance of any services on or after 1 April 2015 under a contract referred to in paragraph (8A)(a)(iii).

(13D) A person referred to in paragraph (13A)(b) may not contribute to or accrue pensionable service under this Section of the scheme.

This is subject to paragraph (13E).

(13E) A person may, where the Secretary of State considers it appropriate to accept that person as a member of this Section of the scheme having regard to the nature of the person’s employment with that other body and the circumstances under which it takes place, contribute to or accrue pensionable service under this Section of the scheme.”.

### **Amendment of regulation 2.C.1**

**23.** For sub-paragraph (b) of paragraph (6) of regulation 2.C.1 (contributions by members), substitute—

“(b) by deduction from any benefit payable to, or in respect of, the member where the Secretary of State has notified the member of an intention to do so.”.

### Amendment of regulation 2.C.2

24.—(1) Regulation 2.C.2 (contribution rate for members other than non-GP providers)(a) is amended as follows.

(2) In paragraph (2), for “2013-2014” substitute “2014-2015”.

(3) For the table in paragraph (2) substitute—  
“Scheme Year 2014-2015

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.6%
£21,388 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

(4) In paragraph (2A), for “2013-2014” substitute “2014-2015”.

(5) For the table in paragraph (2A), substitute—  
“Scheme Year 2014-2015

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.6%
£21,388 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

### Amendment of regulation 2.C.4

25.—(1) Regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers)(b) is amended as follows.

(2) For paragraph (15) substitute—

“(15) For the purposes of this regulation, “the relevant table” means—

- (a) in respect of the 2013-2014 scheme year, table 1;
- (b) in respect of the 2014-2015 scheme year, table 2.

**Table 1**

#### **Scheme Year 2013-2014**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.3%
£21,388 to £26,823	6.8%

(a) Reg.2.C.2(2)-(2A) substituted for reg.2.C.2(2) by National Health Service Pension Scheme (Amendment) Regulations 2013/1414, regulation 6(a)

(b) Substituted by S.I. 2010/1634, regulation 13, S.I. 2013/413 regulation 33(4) and Table substituted by S.I. 2013/1414, regulation 8.

£26,824 to £49,472	9%
£49,473 to £70,630	11.3%
£70,631 to £111,376	12.3%
£111,377 to any higher amount	13.3%

**Table 2**

**Scheme Year 2014-2015**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.6%
£21,388 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

**Amendment of regulation 2.C.6**

**26.** After paragraph (5) of regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11), insert—

“(6) In the case of an employing authority which is an Independent Provider, any contributions that are due to the Secretary of State under this regulation must be—

- (a) determined by the Secretary of State on the advice of the Scheme Actuary;
- (b) paid by way of a single lump sum payment;
- (c) received by the Secretary of State within 1 month of the date on which the Provider is notified of the amount of those contributions due.

(7) Where a Provider fails to make the payment in accordance with paragraph (6)(c), entitlement to benefits under regulation 2.D.11 ceases.”.

**Amendment of regulation 2.C.7**

**27.**—(1) Regulation 2.C.7 (guarantees, indemnities and bonds) is amended as follows.

(2) In paragraph (1) after sub-paragraph (b)(iv), insert—

“(v) an Independent Provider.”.

(3) In paragraph (2), after “liabilities of the authority”, insert “(or such liabilities as are specified by the Secretary of State)”.

**Amendment of regulation 2.D.6**

**28.** In paragraph (1)(c) of regulation 2.D.6 (increase in pensionable pay following exercise of option under regulation 2.D.5), for “less than 90 per cent” substitute “90 per cent or less”.

**Amendment of regulation 2.D.11**

**29.** After sub-paragraph (1)(c) of regulation 2.D.11 (early retirement on termination of employment by employing authority), insert—

“(ca) where the member’s employing authority is an Independent Provider, that the Secretary of State has received the contributions referred to in paragraph (6) of regulation 2.C.6 in respect of that member;”.

### **Amendment of regulation 2.J.9**

**30.** Before sub-paragraph (a) of paragraph (5) of regulation 2.J.9 (interest on late payment of benefits and refunds of contributions), insert—

- “(za) in the case of a pension payable under regulation 2.D.11, where the member’s employing authority is an Independent Provider, the later of—
  - (i) the date on which the Secretary of State receives the contributions referred to in paragraph (6) of regulation 2.C.6, or
  - (ii) the day immediately following that on which the member retires from pensionable employment;”.

### **New regulation 2.J.9A**

**31.** After regulation 2.J.9 (interest on late payment of benefits and refunds of contributions), insert—

#### **“2.J.9A Interest and Administration Charges: Late paid contributions**

(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations 2.C.1, 2.C.5, 2.C.6, 2.C.8, 2.C.10, or 2.C.11, there is a chargeable event.

(2) Where there is a chargeable event, the Secretary of State may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions it has paid at such an event;
- (c) any other factors that the Secretary of State considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Secretary of State becomes aware of a chargeable event, the Secretary of State shall give the employing authority a written notice specifying—

- (a) the date of each chargeable event;
- (b) the amount of unpaid contributions constituting each such chargeable event;
- (c) the amount of interest at the standard rate payable in respect of each of those events;
- (d) the amount of administration charge payable in respect of each of those events;
- (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the Secretary of State considers the case to be exceptional and considers it appropriate for all, or part, of such an amount to be paid in instalments.

(6) Where the Secretary of State considers the case to be exceptional, nothing in the preceding paragraphs prevents the Secretary of State from waiving all or any part of the amount of interest, or all or any administration charges, payable.

(7) The standard rate of interest is to be determined by the Secretary of State from time to time having considered the advice of the Scheme Actuary and the Treasury.

(8) The standard rate of interest in respect of arrears in respect of the Scheme Year 2014-2015 and subsequent years is the rate of Consumer Prices Index for the month of February

immediately preceding the Scheme Year in which the chargeable event arose plus 3 per cent compounded with monthly intervals.

(9) The Administration charge is to be determined by the Secretary of State from time to time.

(10) The Administration charge in respect of arrears in respect of the Scheme Year 2014-2015 and subsequent years is £100.

(11) In any particular case the Secretary of State may direct that, for the purposes of this regulation, “employing authority” includes one or more of—

- (a) the transferee under a transfer of staff order pursuant to—
  - (i) in the case of England, section 28(4)(b) of, or paragraph 29(3) of Schedule 4 to, the 2006 Act;
  - (ii) in the case of Wales, section 22(4)(b) of, or paragraph 8 of Schedule 3 to, the 2006 (Wales) Act;
- (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority’s business or functions.”.

#### **Amendment of regulation 2.J.14**

**32.** For paragraph (6) to (9) of regulations 2.J.14 (employing authority and certain member record keeping and contribution estimates), substitute—

“(6) An employing authority must, in respect of a person, keep a record of all—

- (a) contributions paid under regulations 2.C.1, 2, C.8 or 2.C.10;
- (b) contributions due under regulations 2.C.1, 2.C.8 or 2.C.10, but unpaid;
- (c) contributions paid under regulation 2.A.2.C.1 or 2.C.5;
- (d) contributions due under regulation 2.C.1 or 2.C.5, but unpaid;
- (e) hours or sessions referred to in regulation 2.A.3;
- (f) pensionable pay;
- (g) absences from work referred to in regulation 2.A.4;
- (h) commencement and termination of pensionable employment;
- (i) reasons for termination of pensionable employment.

(7) That record is to be in a manner approved by the Secretary of State.

(8) Except where the Secretary of State waives such requirement, an employing authority must provide a statement in respect of the matters referred to in paragraph (3) in respect of all scheme members to the Secretary of State within 2 calendar months of the end of each scheme year.

(9) Where an employing authority has provided the information in accordance with paragraph (8) and there is then a change to any of the information provided, that employing authority must, within 1 month of the change, provide the Secretary of State with the revised information.

(10) In respect of each scheme year an employing authority shall, within 2 months of a request and in a manner prescribed by the Secretary of State, provide the Secretary of State with the total contributions paid for all scheme members under regulations 2.C.1, 2.C.5 and 2.C.8.

(11) Where an employing authority has provided the information requested at paragraph (10) and there is a revision to the total contributions paid, that employing authority must, within 1 month of the change, provide the Secretary of State with the revised total.

(12) In respect of each scheme year an employing authority shall, 1 month before the beginning of that scheme year, and in a manner prescribed by the Secretary of State, provide the Secretary of State with a statement of estimated total contributions.

## **New Chapter 2.M**

33. After Chapter 2.L (Waiting period joiners), insert—

“Chapter 2.M  
*Independent Providers*”

### **2.M.1 General**

(1) An “Independent Provider” means a person or body that employs an individual under a contract of service and which—

- (a) is not otherwise an employing authority in respect of that employee;
- (b) is a party to an NHS standard contract or an APMS contract the primary purpose of which is the provision of clinical services (a “qualifying contract”);
- (c) has been granted employing authority status for the purposes of this Section of the Scheme by the Secretary of State following a written application made by it to the Secretary of State for that purpose (“an approval application”) whether or not the application was for such approval on an open or closed approval basis; and
- (d) has, as a condition of that approval, arranged a contribution guarantee guaranteeing payment to the Secretary of State of its contribution liability under this Section of the Scheme.

(2) The “wholly or mainly condition”—

- (a) requires that any employee of an Independent Provider performing services pursuant to a qualifying contract, does so if not for the whole of their time in that employment then for more than 50% of that time;
- (b) is to be assessed over each scheme year or part of a scheme year where the services referred to in sub-paragraphs (a) and (b) commence or cease part way through such a year.

### **2.M.2 Approval Applications**

(1) An approval application must—

- (a) be made in respect of all qualifying contracts an Independent Provider is a party to at the time of making it;
- (b) be in writing;
- (c) be in a form that the Secretary of State may from time to time require;
- (d) contain a declaration that any employee of an Independent Provider who is engaged in performing services pursuant to a qualifying contract satisfies the wholly or mainly condition;
- (e) contain a declaration that the Independent Provider is not already an employing authority in respect of any employee referred to in paragraph (d) for the purposes of this Section of the Scheme;
- (f) confirm that employing authority status is sought in respect of an employee of the Independent Provider who is not covered by a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967 and—
  - (i) 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 (closed approval), or

- (ii) who had not, within the last twelve months, been in such an employment (open approval);
- (g) specify each qualifying contract in respect of which employing authority status is sought;
- (h) provide such details of a contribution guarantee as the Secretary of State may from time to time require”;
- (i) provide an estimate, for the Scheme year in respect of which approval (if given) is to take effect, of—
  - (i) the gross amounts the Provider anticipates receiving from the NHS Commissioning Board in respect of the clinical services it is to provide under the qualifying contract in question;
  - (ii) the number of employees who will be engaged in performing services pursuant to a qualifying contract and who will satisfy the wholly or mainly condition;
  - (iii) the total pensionable earnings of those employees referred to in paragraph (ii);
  - (iv) total member contributions payable by those employees pursuant to regulation 2.C.1 (broken down to correspond to the tiers tabulated in that regulation) or 2.C.8 and 2.C.10;
  - (v) total employer contributions payable in respect of those employees pursuant to regulation 2.C.5 and 2.C.11;
  - (vi) total number of employees who, although engaged in providing services in pursuant to a qualifying contract, will not satisfy the wholly or mainly condition;
- (vii) total number of employees who would satisfy the wholly or mainly condition and who are engaged in performing services pursuant to a qualifying contract but who are otherwise not eligible to be members of this section of the Scheme.

(2) An approval application may specify the date from which approval by the Secretary of State (if granted) is to have effect (“the nominated date”).

(3) Where the Secretary of State is satisfied that the Independent Provider will satisfy the matters set out in paragraph (1) at that nominated date, approval shall take effect from that date provided it is later than the date on which approval is granted.

(4) If an approval application does not specify a nominated date, approval shall take effect from that date it is granted.

(5) Where an Independent Provider has applied for and been granted employing authority status any of its employees engaged in performing services pursuant to any qualifying contract in respect of which approval was granted and who satisfies the wholly or mainly condition shall become an officer member of this Section of the Scheme: this applies equally to any such employee who would, if otherwise a member of this Section of the Scheme, be subject to Part 3 (benefits for practitioners) of these Regulations.

(6) Where an Independent Provider which has been granted employing authority status subsequently enters into another qualifying contract, it must make a written application under paragraph 4 within 14 days of that subsequent contract taking effect.

(7) Where an Independent Provider does make such an application in respect of a subsequent qualifying contract and that contract would have the effect of increasing the Independent Provider’s estimated contribution liability arising under regulations 2.C.1, 2.C.5, 2.C.6, 2.C.8, 2.C.10 or 2.C.11 by 10% or more on the date on which approval in respect of that contract takes effect, the Provider must either increase the sum already guaranteed by its contribution guarantee or provide the Secretary of

State with a further contribution guarantee guaranteeing payment of a sum equal to the increased potential contribution liability.

### **2.M.3 Contribution Guarantees**

(1) A contribution guarantee (whether a first guarantee, subsequent guarantee or a combination thereof) must—

- (a) as the case requires, guarantee payment to the Secretary of State of a sum equal to between 100% and 110% of 3/12ths of a reasonable estimate of the Independent Provider's total annual contribution liability in respect of all of its extant qualifying contracts ("the required level of cover") arising under regulations 2.C.1, 2.C.5, 2.C.6, 2.C.8, 2.C.10 or 2.C.11;
- (b) begin with the date on which the Independent Provider's approval takes effect;
- (c) be in a form approved by the Secretary of State from time to time;
- (d) be underwritten by one or more bodies satisfactory to the Secretary of State.

(2) In order to ensure that a contribution guarantee continues to guarantee the required level of cover, the Independent Provider must review it—

- (a) no later than 1 month prior to the start of each Scheme year;
- (b) no later than 1 month after the date on which it was granted employing authority status;
- (c) no later than 1 month before the date on which it is expressed to cease to have effect (where that is not the start of a Scheme year);
- (d) whenever it becomes a party to another qualifying contract;
- (e) immediately whenever the Independent Provider reasonably believes that its estimated contribution liability pursuant to regulations 2.C.1, 2.C.5, 2.C.6, 2.C.8, 2.C.10 or 2.C.11 has increased, or may increase, by more than 10%;
- (f) upon the Secretary of State notifying it in writing that the Secretary of State considers that the sum guaranteed by the contribution guarantee does not, at least, equal the required level of cover.

(3) Where paragraph (2) applies, and the Independent Provider determines or is advised by the Secretary of State, that the amount of cover currently provided by all of its contribution guarantees does not equal the required level of cover in respect of its qualifying contracts, within 14 days of that determination or advice it must either—

- (a) increase the amount of cover provided by its guarantees so that it is at least equal to the required level of cover and notify the Secretary of State in writing of it having done so; or
- (b) take out a further contribution guarantee for the amount by which the level of cover has increased and notify the Secretary of State in writing of it having done so.

(4) Where paragraph (3) applies, and the Independent Provider determines that the amount of cover currently provided by its guarantees remains at least equal to the required level of cover in respect of all of its qualifying contracts, it shall—

- (a) notify the Secretary of State in writing of that fact within 14 days of its determination, and
- (b) provide the Secretary of State with such information in that regard as the Secretary of State may require from time to time.

(5) Where, during the term of any contribution guarantee, the Secretary of State fails to receive from the Independent Provider all of the contributions due under regulations 2.C.1, 2.C.5, 2.C.6, 2.C.8, 2.C.10 or 2.C.11 on the date on which they are



due to be paid, the Secretary of State is to issue a default notice to the Provider comprising—

- (a) a notice referred to in regulation 2.J.9A,
  - (b) a notice terminating the Provider's employing authority status.
- (6) A notice referred to in paragraph (5)(b) must be in writing and must notify the Independent Provider that its status as an employing authority is to cease on the day following the end of the second calendar month following the month for which the contributions were due but not paid.
- (7) Where an Independent Provider's employing authority status is terminated, its employees who are, or who are eligible to be, members of this section of the scheme cease to be or to be eligible to be members on the date of that termination.

#### **2.M.4 Pension Returns.**

(1) An Independent Provider must, in writing and in such form as the Secretary of State may from time to time require, provide the Secretary of State with the information referred on in paragraph (2)—

- (a) within two calendar months of the end of each financial year; and
  - (b) within two calendar months of the date of its termination, or withdrawal, of participation in this Section of the Scheme.
- (2) That information is—
- (a) a complete list of all qualifying contracts to which the Independent Provider is or has been a party over the relevant period;
  - (b) the total gross amounts payable to the Independent Provider by the NHS Commissioning Board in respect of such contracts over the relevant period;
  - (c) whether, as the case may be, the Independent Provider has been granted approval as an employing authority on an open or closed approval basis;
  - (d) whether the Independent Provider changed its approval status and, if so, when;
  - (e) the total gross amounts the Independent Provider has received from the NHS Commissioning Board in respect of all of its qualifying contracts over the relevant period;
  - (f) the amount guaranteed under the Independent Provider's contribution guarantee;
  - (g) the number of employees who will be engaged in performing services pursuant to a qualifying contract who will satisfy the wholly or mainly condition;
  - (h) the total pensionable earnings of those employees;
  - (i) total employee contributions payable by those employees pursuant to regulation 2.C.1 (broken down to correspond to the tiers tabulated in that regulation), 2.C.8 or 2.C.10;
  - (j) total employer contributions payable in respect of those employees pursuant to all or any of regulations 2.C.5 and 2.C.11;
  - (k) total number of employees who, although engaged in providing services pursuant to a qualifying contract, will not satisfy the wholly or mainly condition;
  - (l) total number of employees who would satisfy the wholly or mainly condition and who are engaged in performing services pursuant to a qualifying contract but who are otherwise not eligible to be members of this section of the Scheme.

- (m) confirmation that those of its employees who have become officer members of the scheme continue to satisfy the wholly or mainly condition;
  - (n) total amount of pensionable earnings of employees satisfying the wholly or mainly condition compared to the total gross amounts payable to the Independent Provider by the NHS Commissioning Board in respect of all of its qualifying contracts: that amount to be expressed as a percentage;
  - (o) where the percentage referred to in (n) exceeds 75% (“the 75% threshold”), an explanation for that.
- (3) Where, following a comparison/consideration of the information supplied under paragraph (2), and that, as the case may be—
- (a) originally supplied pursuant to an application for approval under regulation 2.M.2;
  - (b) supplied pursuant to paragraph (5),

the Secretary of State considers further explanation or information is necessary for the Secretary of State to assess compliance with these Regulations, the Independent Provider must provide that information upon the Secretary’s written request and within the period specified in that request.

(4) Where any employee of an Independent Provider who became an officer member of this Section of the Scheme pursuant to regulation 2M.2(5) ceases to satisfy the wholly or mainly condition or any other condition relating to membership of this section of the scheme, the Independent Provider must inform that employee that the employee’s membership of this Section of the Scheme has come to an end on that date and notify the Secretary of State in writing of that fact.

(5) In order to assess whether the grant of employing authority status to an Independent Provider should continue (whether following a notification under paragraph (4) or otherwise), the Secretary of State may at any time require an Independent Provider to provide the Secretary of State with information—

- (a) relating to those employed by it who have become officer members of this Section of the Scheme following its approval as an employing authority;
- (b) relating to all or any qualifying contracts it has entered into in respect of which employing authority status was granted;
- (c) relating to the numbers of persons engaged in performing services pursuant to such contracts and of the proportion of their time spent in doing so;
- (d) which the Secretary of State considers relevant for that purpose.

(6) Information referred to in paragraph (5) must be provided within 14 days of the Secretary of State requesting it.

### **2.M.5 Change in approval basis**

(1) An Independent Provider which was granted employing authority status on an open approval basis (see regulation 2.M.2(1)(f)(ii)) can modify its participation in this Section of the Scheme as an employing authority, by giving the Secretary of State notice (“a modification notice”) stating that it wishes its status as an employing authority under paragraph (q) of the definition of an employing authority in regulation 2.A.1, to cease to apply on an open approval basis and thereafter to continue on a closed approval basis (see regulation 2.M.2(1)(f)(i)).

(2) An Independent Provider may not give a modification notice that affects any person who has become an officer member of this Section of the Scheme by virtue of regulation 2.M.2(5) unless that person gives the Independent Provider written consent to that happening.

(3) Subject to paragraph (2), the date on which a modification of the Independent Providers status as an employing authority in this Section of the Scheme takes effect

("the operative modification date"), cannot fall within the period of 6 months commencing with the date of the modification notice ("the modification period").

(4) A modification notice must—

- (a) be in writing; and
- (b) be accompanied by evidence of the consent of the persons referred to in paragraph (2) to the giving of that notice: such a notice has no effect in respect of such a person who has not given such consent.

(5) A modification notice is effective in respect of all qualifying contracts in respect of which the Independent Provider was granted employing authority status on an open approval basis.

(6) A person who could, but for a modification notice, have become entitled to participate in this Section of the Scheme by virtue of satisfying regulation 2.M.2(1)(f)(ii) (open approval) during the modification period, continues to be so entitled during that period, but will not, at the end of that period, be entitled to participate in the scheme on an open approval basis.

This is subject to paragraph (7).

(7) Nothing in paragraph (6) prevents a person referred to in that paragraph from becoming such a member by virtue of their employment with some other employing authority.

(8) During the modification period, a person who was eligible to become an officer member of this Section of the Scheme in accordance with regulation 2.M.2(5) but who did not do so by virtue of opting out in accordance with regulation 2.B.5, may, in accordance with regulation 2.B.4, join or re-join this Section of the Scheme.

(9) An Independent Provider that has previously modified its participation in this Section of the Scheme or applied for and was granted employing authority status on a closed approval basis may apply for approval on an open approval basis pursuant to this Schedule.

(10) An application referred to in paragraph (9) must specify the date ("the nomination date") from which the change to open approval is sought: the nominated date must not be less than 3 months from the date the application is sent to the Secretary of State.

(11) Where the Secretary of State is satisfied that the Independent provider will, at the nominated date, satisfy the matters set out in regulation 2.M.2 approval is to take effect from that date.

(12) An application referred to in paragraph (9) must specify that approval on an open approval basis is sought in respect of all employees of the Independent Provider engaged in the performance of services pursuant to a qualifying contract at the date on which approval is granted provided always that such persons satisfy the wholly or mainly condition and regardless of whether they were so engaged at the date of any earlier approval or have been so engaged since the operative withdrawal date (or the latest of them if there is more than one).

#### **2.M.6 75% Pensionable Pay Threshold and Contribution Surcharge**

(1) In any scheme year, the maximum proportion of the total gross amounts payable to an Independent Provider in respect of its qualifying contracts that may be paid to its employees who are members of this section of the scheme without it incurring an employer contribution surcharge, is 75% ("the 75% threshold").

(2) Where the 75% threshold is exceeded, the whole of the pay an employee of the Independent Provider receives in respect of the performance of services pursuant to a qualifying contract is nevertheless to count both for the purpose of ascertaining that

person's entitlement to benefits under these Regulations and for the purpose of calculating them.

(3) Where the 75% threshold is exceeded, the Independent Provider is liable to pay the Secretary of State an employer contribution surcharge on the total pensionable pay of its employees in excess of that threshold.

(4) The rate of the employer contribution surcharge is to be determined by the Secretary of State from time to time having had regard to the advice of the Scheme Actuary and the Treasury.

(5) The Secretary may, where satisfied that the Independent Provider has provided a reasonable explanation or justification for the 75% threshold being exceeded, require the Independent Provider to pay an employer contribution surcharge on such part of that excess as the Secretary of State considers reasonable having regard to its declared income, profits, losses and expenses for the scheme year in question.

(6) The Secretary of State can require the Independent Provider to provide such information as the Secretary of State considers necessary to determine whether there has been compliance with any provision of these Regulations.

(7) Where the Secretary of State is not satisfied with any explanation or justification provided by the Independent Provider pursuant to paragraph (5) or the information provided by it pursuant to paragraph (6), the Secretary of State may treat all or any part of the of the total pensionable pay in excess of the 75% threshold as attracting the employer contribution surcharge.

(8) Where the employer contribution surcharge has been imposed on all or part of the excess in accordance with paragraph (7) and the Secretary of State subsequently considers that all or part of it should no longer attract the surcharge, the Secretary of State shall notify the Independent Provider of what part of the excess is subject to an employer contribution surcharge.

(9) Where a contributions surcharge is due, the Independent Provider must pay contributions at the rate specified in paragraph (4) to the Secretary of State within 1 month (beginning with the date of that notice) of being notified by the Secretary of State that such contributions are payable ("a contribution surcharge notice").

(10) Where an Independent Provider fails to pay an employer contribution surcharge pursuant to a contribution surcharge notice, it shall be liable to pay the administration charge and interest referred to in regulation 2.J.9A: interest is to continue to accrue on the late paid surcharge for so long as it remains unpaid and further administration charges may be levied in respect of it.

(11) Nothing in the preceding paragraphs prevents the Secretary of State from waiving all or any part of a sum payable by way of interest or administration charges

#### **2.M.7 Termination of employing authority status by Secretary of State**

(1) The Secretary of State must terminate an Independent Provider's status as an employing authority where that Independent Provider is no longer a party to any qualifying contract.

(2) The Secretary of State may terminate an Independent Provider's status as an employing authority in any of the following circumstances—

- (a) where the Independent Provider subsequently acquires the status of an employing authority specified in any of the paragraphs, other than paragraph (q), of the definition of "employing authority" in regulation 2.A.1: in such a case the Independent Provider ceases to be an employing authority as an Independent Provider but not by virtue of whichever of those paragraphs applies to it
- (b) where all of the employees of the Independent Provider who have acquired membership of this Section of the Scheme pursuant to regulation 2.M.2(5) cease to satisfy the wholly or mainly condition;

- (c) the Independent Provider fails to review, in accordance with regulation 2.M.3(2) the amount of cover provided/guaranteed by its contribution guarantee or, having carried out such a review (whether pursuant to a contribution default notice or otherwise), fails to increase the amount of cover provided by the bond where such an increase is required;
- (d) where, following a contribution default notice, the Independent Provider fails to pay to the Secretary of State the amount by the date specified in regulation 2.M.3(6);
- (e) where, regulation 2.M.3(5) applies and the Independent Provider fails to take the action required by paragraph (a) and (b) within the specified period;
- (f) where the Independent Provider has failed to notify the Secretary of State that it ceases to satisfy the provisions of regulation 2.M.3(1);
- (g) where an Independent Provider fails to provide the evidence referred to in regulation 2.M.4(3);
- (h) where the Secretary of State is not satisfied that the information provided by an Independent Provider pursuant to regulation 2.M.4(5) supports the continuation of the Independent Provider's status as an employing authority;
- (i) where an Independent Provider fails to notify the Secretary of State that the guarantor of its contribution guarantee has withdrawn or revoked that bond;
- (j) where an Independent Provider has in any three years in a five year period exceeded the 75% threshold or has a pattern of doing so.

(3). Where the Secretary of State determines that an Independent Provider's status as an employing authority must be terminated in accordance with this regulation, the Secretary of State is to give that Provider, as soon as reasonably practicable, written notice of that fact and the date from which termination takes effect.

(4) Where an Independent Provider's employing authority status is so terminated, its employees who are, or who were eligible to be, members of this Section of the Scheme, cease to be such members or eligible to be such members on the date of that termination.

### **2.M.8 Withdrawal of participation in this Section of the Scheme**

(1) An Independent Provider can withdraw from participation in this Section of the Scheme as an employing authority, by giving the Secretary of State notice ("a withdrawal notice") stating that it wishes its status as an employing authority under paragraph (q) of the definition of an employing authority in regulation 2.A.1, to cease.

(2) An Independent Provider may not give a withdrawal notice that affects any person who has become an officer member of this Section of the Scheme by virtue of regulation 2.M.? unless that person gives the Independent Provider written consent to that happening.

(3) The date on which withdrawal from this Section of the Scheme takes effect ("the operative withdrawal date"), cannot fall within the period of 6 months commencing with the date of the withdrawal notice ("the withdrawal period").

(4) A withdrawal notice must—

- (a) be in writing; and
- (b) be accompanied by evidence of the consent of the persons referred to in paragraph 46 to the giving of that notice: such a notice has no effect in respect of such a person who has not given such consent.

(5) A withdrawal notice is effective in respect of all qualifying contracts in respect of which the Independent Provider was granted employing authority status.

(6) Where paragraph (5) is satisfied, the persons referred to in that paragraph cease to be officer members of this Section of the Scheme in respect of their employment with that Independent Provider on the operative withdrawal date.

(7) Persons who could, but for a withdrawal notice, have become entitled to participate in this Section of the Scheme by virtue of satisfying regulation 2.M.2(5) during the withdrawal period, continue to be so entitled during that period: at the end of that period such person will not be entitled to be members of this Section of the Scheme pursuant to this Schedule.

This is subject to paragraph (8).

(8) Nothing in paragraph (7) prevents a person referred to in that paragraph from becoming such a member by virtue of their employment with some other employing authority.

(9) During the withdrawal period, a person who was eligible to become an officer member of this Section of the Scheme in accordance with regulation 2.M.2(5) but who did not do so by virtue of opting out in accordance with regulation 2.B.5 may, in accordance with regulation 2.B.4, join or re-join this Section of the Scheme.

(10) An Independent Provider that has withdrawn from participation in this Section of the Scheme, may apply for approval as an employing authority pursuant to this Schedule.

This is subject to paragraph (11).

(11) An application referred to in paragraph (10) must specify that approval is sought in respect of all persons the Independent Provider engages to perform services pursuant to any qualifying contracts at the date on which approval is granted provided always that such persons satisfy the wholly or mainly condition regardless of whether they were so engaged at the date of any earlier approval or have been so engaged since the operative withdrawal date (or the latest of them if there is more than one).”.

### **Amendment of regulation 3.A.1**

**34.**—(1) Regulation 3.A.1 (interpretation of Part 3: general) is amended as follows.

(2) In paragraph (1), omit the definition of “host Board”.

(3) After paragraph (1), add—

“(2) In these Regulations—

(a) “host Board” means—

- (i) in respect of a type 1 medical practitioner who is a partner in a partnership that has entered into a PMS agreement for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with whom that Provider has entered into such an agreement;
- (ii) in respect of a type 1 medical practitioner who is a partner in a partnership that has entered into a GMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that partnership has entered into such an agreement;
- (iii) in respect of a type 1 medical practitioner who is a partner in a partnership that is an APMS contractor which has entered into an APMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that partnership has entered into such a contract;

- (iv) in respect of a type 1 medical practitioner who is a shareholder in a company limited by shares that is a GMS practice or a PMS practice or an APMS contractor which has entered into a GMS contract, PMS agreement or APMS contract for the provision of primary medical services, means the National Health Service Commissioning Board or each Local Health Board with which that company has entered into such an agreement or contract;
- (v) in respect of a type 1 medical practitioner who is an individual who is a GMS practice or a PMS practice or an APMS contractor, means the National Health Service Commissioning Board or each Local Health Board with which that practice or contractor has entered into an agreement or contract as such a practice or contractor;
- (vi) in respect of a GDS or a PDS contractor who is a dentist performer, means the National Health Service Commissioning Board or each Local Health Board with whom the dentist performer performs primary dental services under—
  - (aa) a GDS contract;
  - (bb) a PDS agreement (whether or not a PDS contractor is a party to that agreement);
  - (cc) a contract for services with the National Health Service Commissioning Board or each Local Health Board which relates to arrangements under which it provides primary dental services under section 99(2) of the 2006 Act (in the case of England) or section 56(2) of the “006 (Wales) Act (in the case of Wales);
- (b) a person referred to in paragraphs (i) to (v) of sub-paragraph (a) is deemed to be employed by the appropriate Board, except where—
  - (i) regulation 3.C.5(5) or (6) applies, or
  - (ii) contributions payable by an employing authority in respect of a type 1 practitioner: in such a case those contributions and any administration charge or interest under regulation 3.J.9A which attaches to them, are not payable by the NHS Commissioning Board or a relevant Local Health Board but are payable by that type 1 practitioner or a partnership referred to in regulation 3.A.9 that includes that type 1 practitioner;
- (c) a person referred to in paragraph (vi) of sub-paragraph (a) is deemed to be employed by the appropriate Board, except where—
  - (i) regulation 3.C.5(5) or (6) applies, or
  - (ii) contributions payable by an employing authority in respect of a GDS or a PDS contractor who is a dentist performer: in such a case those contributions and any administration charge or interest under regulation 3.J.9A which attaches to them, are not payable by the NHS Commissioning Board or a relevant Local Health Board but are payable by that GDS or PDS contractor.”.

### **Amendment of regulation 3.A.9**

**35.** In paragraph (3) of regulation 3.A.9 (calculating pensionable earnings of medical practitioners in partnership), for “registered medical practitioner” substitute “type 1 medical practitioner”.

### Amendment of regulation 3.B.5

36. In paragraph (7) of regulation 3.B.5 (opting out of this section of the scheme) after “locum practitioner”, insert “:this is subject to paragraph (16) of regulation 3.J.14”.

### Amendment of regulation 3.C.2

37.—(1) Regulation 3.C.2 (members’ contribution rate)(a) is amended as follows.

(2) For paragraph (17) substitute—

“(17) For the purposes of this regulation, “the relevant table” means—

- (a) in respect of the 2013-2014 scheme year, table 1;
- (b) in respect of the 2014-2015 scheme year, table 2.

**Table 1**

**Scheme Year 2013-2014**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.3%
£21,388 to £26,823	6.8%
£26,824 to £49,472	9%
£49,473 to £70,630	11.3%
£70,631 to £111,376	12.3%
£111,377 to any higher amount	13.3%

**Table 2**

**Scheme Year 2014-2015**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5%
£15,432 to £21,387	5.6%
£21,388 to £26,823	7.1%
£26,824 to £49,472	9.3%
£49,473 to £70,630	12.5%
£70,631 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

### Amendment of regulation 3.C.4

38. In paragraph (2) of regulation 3.C.4 (guarantees, indemnities and bonds), after “liabilities of the authority”, insert “(or such liabilities as are specified by the Secretary of State)”.

### Amendment of regulation 3.C.5

39. For sub-paragraph (b) of paragraph (19A) of regulation 3.C.5 (payment of contributions), substitute—

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(a) Substituted by S.I. 2009/381, regulation 55 and amended by S.I. 2010/1634, regulations 8, 16(1), (2), (3) and by S.I. 2011/2586, regulations 14, 28(a)(i), (ii), (b)(i), (b)(ii), (iii), (c)(i), (ii), (iii) and by S.I. 2012/610, regulations 9, 18 and by S.I. 2013/413 regulations 62(5) and by S.I. 2013/1414 regulation 9.



“(b) by deduction from any benefit payable to, or in respect of, the member where the Secretary of State has notified the member of an intention to do so.”.

#### **Amendment of regulation 3.D.6**

**40.** In paragraph (1)(c) of regulation 3.D.6 (increase in level of engagement following exercise of option under regulation 3.D.5), for “less than 90 per cent”, substitute “90 per cent or less”.

#### **New regulation 3.J.9A**

**41.** After regulation 3.J.9 (interest on late payment of benefits and refunds of contributions), insert—

##### **“3.J.9A Interest and Administration Charges: Late paid contributions**

(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations 3.C.1, 3.C.3, 3.C.5, 3.C.6, 3.C.8, or 3.C.9, there is a chargeable event.

(2) Where there is a chargeable event, the Secretary of State may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions it has paid at such an event;
- (c) any other factors that the Secretary of State considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Secretary of State becomes aware of a chargeable event, the Secretary of State shall give the employing authority a written notice specifying—

- (a) the date of each chargeable event;
- (b) the amount of unpaid contributions constituting each such chargeable event;
- (c) the amount of interest at the standard rate payable in respect of each of those events;
- (d) the amount of administration charge payable in respect of each of those events;
- (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made within 1 month of the date of the notice that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as single lump sum unless the Secretary of State considers the case to be exceptional and considers it appropriate for all, or part, of such an amount to be paid in instalments.

(6) Where the Secretary of State considers the case to be exceptional, nothing in the preceding paragraphs prevents the Secretary of State from waiving all or any part of the amount of interest, or all or any administration charges, payable.

(7) The standard rate of interest is to be determined by the Secretary of State from time to time having considered the advice of the Scheme Actuary and the Treasury.

(8) The standard rate of interest in respect of arrears in respect of the Scheme Year 2014-2015 and subsequent years is the rate of Consumer Prices Index for the month of February immediately preceding the Scheme Year in which the chargeable event arose plus 3 per cent compounded with monthly intervals.

(9) The Administration charge is to be determined by the Secretary of State from time to time.

(10) The Administration charge in respect of arrears in respect of the Scheme Year 2014-2015 and subsequent years is £100.

(11) In any particular case the Secretary of State may direct that, for the purposes of this regulation, “employing authority” includes one or more of—

- (a) the transferee under a transfer of staff order pursuant to—
  - (i) in the case of England, section 28(4)(b) of, or paragraph 29(3) of Schedule 4 to, the 2006 Act;
  - (ii) in the case of Wales, section 22(4)(b) of, or paragraph 8 of Schedule 3 to, the 2006 (Wales) Act;
- (b) without limiting sub-paragraph (a), a successor, transmittee or assignee of an employing authority’s business or functions.”.

#### **Amendment of regulation 3.J.14**

**42.**—(1) Regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates) is amended as follows.

(2) For paragraph (16), substitute—

“(16) A member’s pensionable earnings for a scheme year shall be zero and no contributions paid in respect of that scheme year are to be refunded where, in respect of that scheme year, a member has failed to comply with the requirements of—

- (a) whichever of sub-paragraphs (1), (2), (4), (5), or (6) applies to that member, or
- (b) paragraph (7) of regulation 3.B.5.

This is subject to sub-paragraphs (17) and (18).”.

(3) For paragraph (20), substitute—

“(20) An employing authority must, in respect of a person, keep a record of all—

- (a) contributions paid under regulations 3.C.1, 3.C.6 or 3C.8;;
- (b) contributions due under regulations 3.C.1, 3.C.6 or 3C.8, but unpaid;
- (c) contributions paid under regulation 3.C.3 or 3.C.9;
- (d) contributions due under regulation 3.C.3 or 3.C.9, but unpaid;
- (e) pensionable earnings;
- (f) absences from work referred to in regulation 3.A.4;
- (g) commencement and termination of pensionable employment;
- (h) reasons for termination of pensionable employment.

(20A) That record is to be in a manner approved by the Secretary of State.

(20B) Except where the Secretary of State waives such requirement, an employing authority must provide a statement in respect of the matters referred to in paragraph (20) in respect of all scheme members to the Secretary of State—

- (a) no later than 7 calendar months of the end of each scheme year, in the case of a dental practitioner;
- (b) no later than 13 calendar months of the end of each scheme year, in the case of a medical practitioner.

(20C) Where an employing authority has provided the information in accordance with paragraph (20B) and there is then a change to any of the information provided, that employing authority must, within 1 month of the change, provide the Secretary of State with the revised information.”.

Signed by authority of the Secretary of State for Health.

Address	<i>Name</i>
Date	Parliamentary Under-Secretary of State Department of Health

We consent	<i>Name</i>
Date	<i>Name</i> 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”) and the National Health Service Pension Scheme Regulations 2008 (S.I. 2008/653) (“the 2008 Regulations”).