



Department  
of Health

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

Consultation Document & Explanatory Notes

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# Introduction

The Department of Health has published for consultation a draft Statutory Instrument titled: The National Health Service Pension Scheme and Additional Voluntary Contributions (Amendment) Regulations 2017. This instrument proposes amendments to the regulations that provide the rules for the NHS Pension Schemes in England & Wales.

There are two NHS Pension Schemes: the new reformed 2015 scheme and the older, closed scheme which is divided into the 1995 and 2008 sections. Accordingly there are three sets of regulations under which entitlement to pension and other benefits are calculated:

- The National Health Service Pension Scheme Regulations 1995 (SI 1995/300)
- The National Health Service Pension Scheme Regulations 2008 (SI 2008/653)
- The National Health Service Pension Scheme Regulations 2015 (SI 2015/94)

The National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015 (SI 2015/95) put in place transitional arrangements for members of the new 2015 scheme who have pension rights accrued in either the 1995 or 2008 section of the old NHS pension scheme. The transitional regulations make provision for the treatment and payment of old scheme benefits during or following a period of membership of the new scheme. They also include protections permitting members close to normal pension age to remain in the old scheme.

In summary, the draft instrument amends the scheme regulations for the following main purposes:

- to support the development and adoption of new care models as articulated in the Five Year Forward View by
  - ensuring income from new types of contracts relating to new ways of delivering primary and secondary care are pensionable;
  - enabling independent providers of clinical health care services for the NHS who only hold an NHS standard sub-contract or a Multispecialty Community Provider standard sub-contract to apply to become NHS Pension Scheme employing authorities;
- to make technical corrections and refinements to improve the operation of scheme regulations.

This document explains the purpose and effect of the provisions set out in the draft instrument. It should be read in conjunction with the draft Statutory Instrument which is available at [www.gov.uk/dh](http://www.gov.uk/dh) (policy area: National Health Service). The Department welcomes any comments or views on the proposals set out in this document and the draft regulations.

# How to respond

Comments on the draft legislation can be submitted via email to:

NHSPSconsultations@dh.gsi.gov.uk

or by post:

NHS Pensions Policy Team  
Department of Health  
Room 2W09 Quarry House  
Quarry Hill  
Leeds LS2 7UE

The consultation will close on 26 January 2017

## **Confidentiality of information**

The Department will manage the information you provide in response to this consultation in accordance with the Department of Health's Personal Information Charter<sup>1</sup>.

Information the Department receives, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If the Department receives a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

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The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

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<sup>1</sup> <https://www.gov.uk/government/organisations/department-of-health/about/personal-information-charter>

# 1. New Care Models

- 1.1. NHS England's Five Year Forward View (5YFV), published in October 2014<sup>2</sup>, outlined new models of delivering care services which transcend traditional boundaries, in particular to integrate out-of-hospital care.
- 1.2. The development of differing forms of care delivery and the changes in contracting arrangements emerging from new models of care has led to the identification of specific issues surrounding access to the NHS pension scheme. In order to ensure that work that is currently pensionable remains so for those delivering NHS services, amendments need to be made to scheme regulations to recognise new forms of contracts which will be in use from April 2017.

## Multispecialty Community Providers

- 1.3. NHS England published in July 2016 a document entitled "The Multispecialty Community Provider (MCP) emerging care model and contract framework"<sup>3</sup>. That set out the vision of MCPs being about integration; redesigning care around the health of the population and breaking down the historical partitions between primary, community, mental health and social care and acute services.
- 1.4. Key to delivering MCPs is the introduction of a new form of contract which will be used to commission a mix of health and care services. At the time of commencing this consultation NHS England have not yet published the draft contract for consultation, so it is not clear what the name of the new contract will be. For the purposes of this consultation, we have used the term "MCP standard contract" in the draft Statutory Instrument to demonstrate how and where this new contract will be introduced to the regulations.
- 1.5. The intention is that the MCP contract becomes a contract which is pensionable. It is therefore reflected in the sections of the regulations which relate to groups of staff whose eligibility for the scheme arises from the work they do and the services they deliver in relation to certain contracts. These include GP practice staff, practitioners (GPs) and independent providers. Amending regulations 3, 6, 10, 18, 19, 20(2) and (5), 38, 42(4) and 44 add the MCP contract to the interpretation/definitions sections of the three sets of regulations respectively.
- 1.6. The MCP contract is also introduced to the independent provider (IP) sections of the regulations as a new form of "qualifying contract" via amending regulations 3(5), 10(6) and 35(2). This adds a further contract to the three existing contracts which have been

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<sup>2</sup> <https://www.england.nhs.uk/wp-content/uploads/2014/10/5yfv-web.pdf>

<sup>3</sup> <https://www.england.nhs.uk/wp-content/uploads/2016/07/item4-28-07-16.pdf>

deemed “qualifying contracts” since the introduction of the IP concept to the NHS Pension Scheme regulations in April 2014. This means that new MCPs holding an MCP contract will, from 1 April 2017, be able to apply to become an NHS pension scheme IP – which confers employing authority (EA) status and allows the organisation to offer the NHS pension scheme to its eligible employees.

- 1.7. A change to scheme regulations last April, which was retrospective to 1 April 2015, allows IP status to be granted from a retrospective date, meaning that there should be no gap in pensionable service for those employees of the MCP who are eligible for scheme membership once IP status is granted.

## **Sub-contracting**

- 1.8. An amendment to scheme regulations last April permitted income from a specified sub-contract to be pensioned by those EAs that qualify via the contracts that they hold (such as IPs and GP practices). That sub-contract was the NHS standard sub-contract<sup>4</sup>. For income to be pensionable, it was also a requirement that the holder of the main NHS standard contract (from which the sub-contract flowed) was an EA.
- 1.9. Special Health Authorities, NHS Trusts, Foundation Trusts and Clinical Commissioning Groups, for example, qualify as EAs because they are qualifying statutory bodies, which means that the nature of their contracting arrangements are not relevant to their status as EAs.
- 1.10. The Department continues to monitor the fact that sub-contracting is becoming more prevalent as new models of delivering care emerge. It is the Department and NHS England’s intention that the MCP contract is supplemented by a standard sub-contract, in the same way that the NHS standard contract has been. For the same reasons established in the 2015 consultation<sup>5</sup> on introducing the NHS standard sub-contract into scheme regulations, the Department intends that an MCP standard sub-contract is introduced.
- 1.11. It is crucial that, when extending scheme membership in this way, appropriate checks and controls are implemented in order to limit additional scheme liabilities. A form of sub-contract that complies with wider contracting requirements is such an appropriate control. It also allows the scheme administrator to reliably validate eligible sub-contracted pensionable earnings when necessary and ensures consistency and legal certainty.

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<sup>4</sup> <https://www.england.nhs.uk/wp-content/uploads/2016/03/4-sub-contract-guid-16-17.pdf>

<sup>5</sup> <https://www.gov.uk/government/consultations/proposed-changes-to-the-regulations-for-the-nhs-pension-schemes>

- 1.12. Requiring use of the standard sub-contract ensures that only NHS work is pensioned, and scheme liabilities are appropriately controlled. This sub-contract will give providers access to a sub-contract that follows the format of the MCP standard contract. This allows for a clear line of sight for the funding of NHS clinical services to flow through the MCP standard contract down to the sub-contract.
- 1.13. Ensuring that the holder of the main contract is also an EA allows checks and oversight of sub-contracting to be undertaken by the scheme administrator (NHS Business Services Authority – NHS BSA) via the annual returns that practitioners and IPs must complete and return, by law, to NHS BSA after the end of each pension scheme year.
- 1.14. Amending regulation 7(4) provides for a consequential amendment to the 1995 section regulations which set out the requirements for annual returns to be provided by IPs. This is needed as a result of allowing sub-contracts to be pensionable, and extends the requirement of the annual return to include recognised sub-contracts and to identify the sub-contractor. Draft amending regulations 17 and 37 make the same required addition to the 2008 and 2015 regulations respectively.

### **Sub-contracts as qualifying contracts for IPs**

- 1.15. In a significant change to NHS pension scheme policy, recognising that sub-contracting is becoming more prevalent amongst providers of clinical NHS services, it has been decided to permit two mandated types of sub-contracts to be “qualifying contracts” in relation to independent provider access to the scheme.
- 1.16. Since the introduction of IP access to the scheme from 1 April 2014 there have been three forms of qualifying contract upon which EA status could be granted. The IP regulations will be amended from 1 April 2017 to also include two sub-contracts to the list of qualifying contracts.
- 1.17. The two new qualifying contracts will be the NHS standard sub-contract and the MCP standard sub-contract. This amendment will permit organisations not already EAs who only hold one (or both) types of sub-contracts to apply to become an IP. All of the existing regulations around IPs will apply equally to the new IPs which are solely sub-contractors (including, for example, the wholly or mainly requirement and that only a maximum of 75% of the contract value should be pensionable).
- 1.18. Following the access review conducted throughout 2015, taking account of the first year of IP access to the NHS pension scheme, it became very clear that NHS clinical service sub-contractors were keen to offer the NHS pension scheme to their eligible employees. It was felt that not being able to offer scheme membership was a continuing factor in a playing field that remained unequal to all.



- 1.19. The Department listened carefully to the arguments and, in the context of growing sub-contracting as a result of new care models, proposes a limited extension of IP access to sub-contractors. This is on the basis of continuing the checks and balances that had been introduced from April 2016 when sub-contracts were first included in the regulations.
- 1.20. Those checks and balances include only permitting prescribed forms of sub-contracts; ensuring that the holder of the main contract is also a scheme EA; and also requiring declaration of all relevant sub-contracts in IP end of year returns.

## 2. National Minimum Wage

- 2.1. Regulation D3 “Further Contributions by employing authorities in respect of excessive pay increases” was inserted into the NHS Pension Scheme 1995 section regulations from 1 April 2014.
- 2.2. It was designed to levy charges on employers awarding excessive pay increases to members of the 1995 Section within the final pay period used for the calculation of benefits (in the 1995 section, the best of the final 3 years’ pay).
- 2.3. It has been brought to the Department’s attention that recent legislative changes relating to the national minimum wage have the potential to engage the provisions of regulation D3. This is clearly not within the spirit or intent of the rule.
- 2.4. The Department has therefore decided to specifically exclude pay increases which could be deemed excessive where the sole reason for that pay increase relate to changes to the national minimum wage.
- 2.5. Amending regulation 4 inserts a new paragraph into regulation D3 to achieve this. This amendment is retrospective to 1 April 2016 to ensure any recent changes relating to the national minimum wage are ignored for the purposes of regulation D3.

## 3. Technical & consequential amendments

- 3.1. A number of miscellaneous amendments are proposed. These make consequential adjustments to accommodate changes in primary legislation, or other technical corrections and refinements.

### **Independent Providers – closed or open status: wholly or mainly condition**

- 3.2. The regulations relating to IPs have been in place since 1 April 2014 and have remained largely unchanged since. Amendments made in 2016 will be built upon with further amendments from April 2017 relating to sub-contracts; these amendments are covered in section 1 above.
- 3.3. When the concept of IP access was introduced to the NHS Pension Scheme regulations, two levels of “access” were offered; closed or open. IPs choose which level they prefer. Closed access only allows IP employees who have had eligibility in the preceding 12 months to join the NHS pension scheme when employed by an IP; open access allows any eligible IP employee to join the scheme.
- 3.4. Given that the regulations are being extended to allow more organisations to apply to become IPs, it has been decided to put beyond doubt that the “wholly or mainly” condition applies equally to closed and open IP access. Amending regulations 7(2) and (3), 16 and 36 add further wording to the relevant sections of the regulations where the qualifying criteria for “closed IP access” are set out. This puts it beyond doubt that the wholly or mainly condition applies equally to closed and open IP access.

### **NHS standard sub-contract definition**

- 3.5. Amending regulations 3(6), 10(4) and 18(4) update the definition of NHS standard sub-contract in regulation A2 of the 1995 Section and regulations 2.A.1 and 3.A.1 of the 2008 Section with reference to the latest 2016/17 guidance.
- 3.6. The corresponding definition in Schedule 15 of the 2015 Scheme is also amended; amending regulation 44(4) substitutes the incorrect entry in column 2 of the table in Schedule 15 with the updated NHS standard sub-contract definition.
- 3.7. Amending regulations 3(4), 10(5), 18(5) and 44(5)(i) extend the reference to an NHS standard sub-contract in the definition of "practice staff" found in 1995 regulation A2, 2008 regulations 2.A.1, 3.A.1 and Schedule 15 to the 2015 Regulations. The extended reference ensures that work in connection with an NHS standard sub-contract may only be pensioned by practice staff if the holder of the main contract is also a scheme employing authority.

## **General refinements and corrections**

### **The NHS Pension Scheme Regulations 1995 and 2008**

*Amending regulations 5, 14 and 22 amend regulation M8 (member's right to transfer a preserved pension to the 2015 Scheme) of the 1995 Section and regulations 2.F.18 and 3.F.18 (right to transfer a deferred pension to the 2015 Scheme) of the 2008 Section.*

- 3.8. Deferred members of the 1995 Section and the 2008 Section who re-join the NHS Scheme following a break of more than five years have the option of transferring their earlier benefits in those Sections across to the 2015 Scheme. Amending regulations 5, 14 and 22 alter the procedure for such transfers.
- 3.9. Currently qualifying members are automatically provided with a cash equivalent transfer value of their 1995 or 2008 Section benefits ("a statement of entitlement") within three months of joining the 2015 Scheme.
- 3.10. From 1 April 2017 with the NHS Pensions Board agreement, members will instead be sent a notice within the same timescale explaining their right to apply for a statement of entitlement. Members will have up to three months from the date of the notice to request a statement. Once such a request is received, NHS Pensions (the scheme administrator) will provide the member with a statement of entitlement within three to six months. As now, the member will then have a further three months to consider the information provided in the statement and make a decision on whether they wish to proceed with the transfer.

### **The NHS Pension Scheme Regulations 2008**

*Amending regulations 9, 11(4) and (5), 12(4), 15 and 23 make amendments to correct minor typographical errors, cross-references and formatting.*

- 3.11. Amending regulations 9 and 12(4) correct minor typographical errors in paragraph (3B) of regulation 1.B.3 (provision of information relevant for tax purposes) and paragraph (6)(a) of regulation 2.C.6 (contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11) respectively.
- 3.12. Amending regulation 11(4) replaces the incorrect cross-reference to 1995 Section paragraph (8B) in paragraphs (13C) and (13D) of regulation 2.B.2 (restrictions on eligibility: general) with paragraph (13B). Amending Regulation 11(5) corrects a typographical error in paragraph (13F) by replacing the reference to "2M.3" with "2.M.3".

3.13. Amending regulations 15 and 23 replace the cross-references to paragraph (5) in paragraph (4) of regulation 2.H.1 (application of Chapter 2.H) and to paragraph (6) in paragraph (5) of regulation 3.H.1 (application of Chapter 3.H) with paragraphs (4A) and (5A) respectively.

*Amending regulations 10(2)(c) and 18(2)(c) amend regulation 2.A.1 and 3.A.1 (interpretation: general) respectively, and amending regulations 11 and 21 amend regulations 2.B.2 and 3.B.2 (restrictions on eligibility: general)*

3.14. Protected members of public service final salary schemes<sup>6</sup> (including other Health Service Schemes) are, in certain circumstances, permitted to join other public service final salary schemes when voluntarily moving around the public service. These amendments ensure that those arrangements also apply to protected members of public service final salary schemes in Northern Ireland by the inclusion of relevant references to the Public Service Pensions Act (Northern Ireland) 2014.

*Amending regulation 13 amends regulation 2.F.9 (procedure for applications under regulation 2.F.8)*

3.15. This amendment ensures that service in another public service pension scheme that qualifies for a final salary link under either the Public Service Pensions Act 2013 or the Public Service Pensions Act (Northern Ireland) 2014 may be transferred into the 2008 Section on cash equivalent terms where the member does not qualify for a transfer under the Public Sector Club arrangements.

3.16. This will be in circumstances where-

- the member fails to qualify for a transfer under Club arrangements because of a break in service of over five years between leaving the sending scheme and joining the new scheme,
- but still qualifies for a final salary link for the relevant service because the member has a period of service in another public service scheme during the break that has the effect of reducing the break (for the purposes of retaining the final salary link) to one that is under five years.

*Amending regulations 20(3) and (4) amend regulation 3.A.13 (meaning of pensionable earnings in relation to other practitioners).*

3.17. Amending regulation 20(3) corrects a minor typographical error in paragraph (1)(f). Amending regulation 20(4) brings the 2008 Section into line with amendments made to the 1995 Section, effective from 1 April 2014 (S.I. 2014/570) by omitting unnecessary references to practitioner overtime.

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<sup>6</sup> Members remaining in public service final salary schemes after 1 April 2015 because of their proximity to normal pension age rather than being moved across to new CARE arrangements

## The NHS Pension Scheme Regulations 2015

*Amending regulation 25 amends regulation 43 (eligibility to make buy-out election)*

- 3.18. These amendments ensure that members have the opportunity to take out an election to buy out an actuarial reduction once in respect of each period of pensionable service that results in a new active member's account being established. A new active member's account is established when a member first joins the 2015 Scheme or re-joins the 2015 Scheme after taking a refund or a transfer or after having a break in pensionable service of more than five years.

*Amending regulations 26 to 31 make amendments to Additional Pension provisions in Chapter 5 of Part 4. The amendments made by amending regulations 26, 29(2), 30 and 31 are retrospective to 1 April 2015.*

- 3.19. Amending regulation 26 amends regulation 58 (making an additional pension election) by inserting a new paragraph (5), which replicates the provisions of 2008 Section regulation 2.C.12(4) in order to clarify when a member or an employing authority is to be treated as having made an additional pension election.

- 3.20. Amending regulation 27 amends regulation 63 (repayment of lump sum contributions). The word 'personal' is inserted before 'representatives' in paragraph (2)(a) for clarity and consistency reasons. Similar amendments are made to regulations 66(7) (revoking an additional pension election (periodic payments)), 67(2)(a) (revocation of election by scheme manager (lump sum) and 69(2)(a) (death in service before end of contributions payment period) in amending regulations 28, 29 and 30.

- 3.21. A further clarification made by amending regulation 27 is the insertion of the word "additional" before "pension account" in two places. Finally, paragraph (3) of regulation 63, in relation to an ill-health pension, is amended to clarify that additional pension contributions may be refunded if a claim for ill-health pension is made within 12 months of the election being made.

- 3.22. Amending regulation 29, in addition, amends regulation 67 to clarify that the period of 12 months, referred to in paragraph (1)(a), links to the date the additional pension election was made.

- 3.23. Amending regulation 30 also amends regulation 69 in two further places. The first amendment, to paragraph (1), clarifies that the additional pension election can be for 'self-only' or for 'self-only and survivor's pension'. Amending regulation 30(4) omits regulation 69(2)(b), which refers to the repayment of a lump sum additional pension contribution to an employing authority. This is a duplicate provision, found in regulation 63. A consequential amendment is then made to regulation 69(4)(b) to change the reference to paragraph (2)(a) and (c).

3.24. Amending regulation 31 amends regulation 70 (ill-health pension becomes payable before end of contributions payment period). Paragraph (2) omits regulation 70(2)(b), which refers to the repayment of a lump sum additional pension contribution to an employing authority. This is a duplicate provision, found in regulation 63. Amending regulation 31(3) replaces paragraph (3) of regulation 70 with paragraphs (3) and (4) to bring the drafting into line with the corresponding provision in regulation 69.

*Amending regulation 32 amends regulation 90 (entitlement to ill health pension)*

3.25. This amendment clarifies that a member must be qualified for retirement benefits in order to qualify for a tier 1 ill health pension. A typographical error in paragraph (2)(e) is also corrected by the removal of the unnecessary word “has”.

*Amending regulation 33 amends regulation 91 (member’s incapacity)*

3.26. Regulation 91 requires the scheme manager to have regard to whether a member has received “appropriate medical treatment” when determining whether a member is permanently incapable of discharging the duties of their employment because of ill health. Amending regulation 30 limits the scope of the treatment to only such treatment that the member could receive before reaching prospective normal pension age or would improve the member’s health before reaching that age.

*Amending regulation 34 amends regulation 123 (amount of child pension: deceased active member)*

3.27. This amendment makes regulation 123 clearer on the amount of any pension increases to be included in the base pension which is used to calculate a child pension in circumstances where a member dies within twelve months of leaving. Any increases to be applied will be those due up until the day after the deceased member’s last day of service.

*Amending regulation 39 amends Schedule 6*

3.28. This amendment addresses the consistency of the formatting and numbering in Schedule 6 (persons to whom the scheme may be extended) and corrects a typographical error in “health services” in paragraph 2(c) of that Schedule.

*Amending regulation 40 amends paragraph 2 (persons subject to retention arrangements) of Schedule 8 (restrictions on eligibility: secondments relating to qualifying contracts)*

3.29. This amendment confirms that the relevant date for the purposes of sub-paragraph (3) is 2nd April 2014. This date was omitted from the original regulations.

*Amending regulation 41(2) amends paragraph 3 (meaning of “leaver index adjustment”) of Schedule 9 with retrospective effect to 1 April 2015*

3.30. The “leaver index adjustment” (LIA) generally applies when pensions first come into payment. It is the prorate increase or decrease to the pension resulting from the application of the Consumer Price Index (CPI) plus 1.5% for the period from 1 April in the member’s last year of service up to their retirement date.

3.31. CPI for this purpose is the increase or decrease set out in orders made by the Treasury under section 9(2) of the Public Service Pensions Act 2013. The index is not confirmed until the following year. This means that the prorate LIA is generally applied after a pension comes into payment.

3.32. In circumstances where the application of a negative CPI plus 1.5% would otherwise cause the amount of pension in payment to reduce, this amendment ensures that the reduction will not apply so that the pension in payment will remain unchanged.

*Amending regulation 41(3) inserts new Part 2A (paragraphs 15A to 15C) into Schedule 9 with retrospective effect to 1 April 2015*

3.33. This amending regulation inserts three new paragraphs into Schedule 9 to cover circumstances not adequately provided for in the original 2015 Scheme Regulations. The new paragraphs cover what will happen to an active member’s account when that member leaves pensionable service before qualifying for retirement benefits and what happens when such a member subsequently returns to pensionable service after a break not exceeding five years or a break that does exceed five years.

3.34. New paragraph 15A provides for an active member’s account to be closed when a member leaves before qualifying for retirement benefits.

3.35. New paragraph 15B provides for an active member’s account to be re-opened where such a member returns after a break not exceeding five years as long as the member has not taken a refund or a transfer for the earlier service. In these circumstances the amount of the member’s pension for the earlier service will be adjusted as if the member had continued in pensionable service during the break but had not received any new pensionable earnings during that time.



3.36. New paragraph 15C provides for an active member's account to remain closed where such a member returns after a break not exceeding five years. A new account is opened in respect of the further service but the member will usually only be entitled to a refund for the earlier service.

*Amending regulations 42(2) and (3) amend paragraph 2(2) of Schedule 10 (practitioner income)*

3.37. This amendment clarifies that bonuses are non-pensionable and should not be included in practitioner income.

*Amending regulation 43 amends Schedule 14 (lump sum on death) with retrospective effect to 1 April 2015*

3.38. This amending regulation has two purposes. The first is to ensure that where a member dies in service but also had entitlement to a deferred pension for earlier service, only one lump sum on death is due to be paid at the higher "in service" rate.

3.39. This amendment also refines the definition of "revalued pensionable earnings" for the purposes of calculating a lump sum on death. More detail is now included on the way in which increases equal to pensions increases under the Pensions (Increase) Act 1971 are to be applied in line with how such increases are also applied to lump sums on death in the 2008 Section.

## **The NHS Pension Scheme (Transitional and Consequential Provisions) Regulations 2015**

*Amending regulation 46 amends regulation 10A (effect of recommencing service after break)*

3.40. This amendment replaces the reference to "ill health" in regulation 10A with a reference to "ill-health".

*Amending regulation 47 amends regulation 18 (uprating of old scheme practitioner earnings) with retrospective effect to 1 April 2015*

3.41. Transitional Regulation 18 ensures that practitioner earnings in the old scheme are not uprated twice (once under Scheme Regulations and again under the Pensions (Increase) Act 1971) after a practitioner has moved to the new scheme on or after 1 April 2015 under transitional arrangements. However, the uprating due in respect of the credit of earnings for added years being purchased under transitional arrangements should still be provided for in scheme regulations. This omission is corrected by amending regulation 47.

*Amending regulation 48 amends regulation 40 (entitlements derived from the 2008 section)*

3.42. This amendment inserts a missing paragraph number into the references to regulations 2.E.17 and 3.E.17 in the table at regulation 40.

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

3.43. The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000 provide facilities for NHS Pension Scheme members in pensionable employment to supplement the value of their pension by making money purchase additional voluntary contributions (MPAVCs) to external pension providers.

3.44. Amending regulations 50 and 51 make minor typographical amendments to regulation 2 (interpretation), in the definition of “pensionable employment”, and to regulation 3 (making and acceptance of elections) to omit the superfluous word “or”.

3.45. Amending regulation 52 amends regulation 15 (payments by the Secretary of State) to extend the same death benefit nomination options to MPAVC members that are currently available to members in respect of main scheme benefits and pension credit benefits.