
STATUTORY INSTRUMENTS

201x No.

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

PUBLIC SERVICE PENSIONS, ENGLAND AND WALES

**The National Health Service Pension Scheme and Additional
Voluntary Contributions (Amendment) Regulations 201x**

Made - - - - - ***

Laid before Parliament ***

Coming into force - - - *in accordance with regulation 1*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 10(1),(2) and (2A), and 12(1) and (2) of, and Schedule 3 to, the Superannuation Act 1972(a) and sections 1(1) and (2)(e), 3 and 18(5), and paragraph 5(a) of Schedule 2 and Schedule 3 to, the Public Service Pensions Act 2013(b).

In accordance with section 10(4) of the Superannuation Act 1972 and section 21 of the Public Service Pensions Act 2013, the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State likely to be affected by these Regulations.

In accordance with section 10(1)(c) of the Superannuation Act 1972 and section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury.

(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 10(2A) was amended by section 8(5) of the 1990 Act. Section 12(2) was amended by section 10(1) of the 1990 Act.

(b) 2013 c.25.

(c) The functions of the Minister for the Civil Service under section 10 were transferred to the Treasury by article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service Pension Scheme and Additional Voluntary Contributions (Amendment) Regulations 201x.

(2) These Regulations come into force on 1st April 2018 and, save as provided in paragraph (3), have effect from that date.

(3) Regulations [Brewster][3(b), 5 to 15, 22, 30, 32, 37, 38, 46 and 48] have effect from 1st April 2008.

PART 2

Amendments to the National Health Service Pension Scheme Regulations 1995

General

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

Amendment to regulation A2 (Interpretation)

3. In regulation A2,

(a) In the appropriate place, insert the following—

““integrated services provider contract” is to be construed in accordance with regulation A5;”

““integrated services provider sub-contract is to be construed in accordance with regulation A6;”

(b) In the appropriate place, insert the following—

““scheme partner” has the meaning given in regulation G14(7);”

““surviving scheme partner” has the meaning given in regulation G14(8);”

(c) In the definition of “NHS standard sub-contract(b)”, for the words after “guidance” substitute ““NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance(c)””.

(d) In the definition of “practice staff” after “(c) services pursuant to an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority” insert—

“(cc) an integrated services provider integrated services provider contract Services Provider Contract in question is an employing authority;”

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

““qualifying contract” means—

(a) a contract between a relevant commissioning party and an Independent Provider, the primary purpose of which is the provision of clinical health services for the NHS and which is—

(a) S.I. 1995/300; relevant amending instruments are [SI 2003/361, 2005/3074, 2008/654, 2009/381, 2013/413, 2016/245, 2017/275 [those that amend the regs being amended by this SI] <http://www.legislation.gov.uk/changes>

(b) This definition was inserted by regulation 3(d) of S.I. 2016/245 and amended by regulation 3(3) of S.I. 2017/275.

(c) Electronic copies of the guidance referred to in that definition can be obtained from www.gov.uk/dh. Hard copies may be obtained from the Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

- (i) an NHS standard contract,
- (ii) an APMS contract,
- (iii) a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes, or
- (iv) an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority, or
- (b) an integrated services provider contract; or
- (c) an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority;”.

New regulations A5 (Integrated services provider contract) and A6 (integrated services provider sub-contract)

4. After regulation A4 (civil partnerships and marriage of same sex couples) insert—

“Integrated services provider contract

A5.—(1) This regulation prescribes the requirements for a contract to be an integrated services provider contract for the purposes of these Regulations.

(2) An integrated services provider contract must be between—

- (a) one or more of the persons specified in paragraph (3) on the one part; and
- (b) a provider of integrated services on the other part.

(3) The persons for the purposes of paragraph (2)(a) are—

- (a) the National Health Service Commissioning Board;
- (b) a Clinical Commissioning Group;
- (c) an English local authority.

(4) An integrated services provider contract must not be entered into before 1st April 2018.

(5) An integrated services provider contract must relate to the provision [for the persons specified in paragraph (3)?] of two or more of the services specified in paragraph (6).

(6) The services are—

- (a) primary medical services;
- (b) [give title of services and then define in (7)];
- (c) public health services;
- (d) adult social care services.

(7) For the purposes of paragraph (6)(b) [title] are such services, accommodation or facilities as a clinical commissioning group considers it appropriate to make arrangements for the provision of for the purposes of the health service—

- (a) under or by virtue of section 3 (duties of clinical commissioning groups as to commission of health services) or 3A (power of clinical commissioning groups to commission certain health services) of the 2006 Act, or
- (b) which the National Health Service Commissioning Board is required by the Secretary of State to commission by virtue of regulations made under 3B (power to require Board to commission certain health services) of the 2006 Act.

(8) For the purposes of paragraph (6)(c), public health services are services which, as part of the health service, are provided—

- (a) pursuant to the exercise of the public health functions of the Secretary of State under the following provisions of the 2006 Act—
 - (i) section 2A (Secretary of State’s duty as to protection of public health),
 - (ii) section 2B (functions of local authorities and Secretary of State as to improvement of public health), or
 - (iii) paragraphs 7C, 8 or 12 of Schedule 1 (further provision about the Secretary of State and services under this Act);
 - (b) pursuant to the exercise of the public health functions of local authorities under the following provisions of the 2006 Act—
 - (i) section 2B (functions of local authorities and Secretary of State as to improvement in public health),
 - (ii) section 111 (dental public health), or
 - (iii) paragraphs 1 to 7B or 13 of Schedule 1 (further provision about Secretary of State and services under this Act);
 - (c) pursuant to arrangements where the local authority is required to exercise any of the public health functions of the Secretary of State by virtue of regulations made under section 6C of the 2006 Act (regulations as to the exercise by local authorities of certain public health functions), or
 - (d) pursuant to arrangements made by the National Health Service Commissioning Board, a clinical commissioning group or a local authority, where those bodies are acting pursuant to arrangements made under section 7A of the 2006 Act (exercise of the Secretary of State’s public health functions).
- (9) Paragraphs (8)(a) and (b) include such functions when they are exercised by an NHS body under section 75 partnership arrangements.
- (10) For the purposes of paragraph (6)(d), adult social care services are services provided pursuant to the exercise of the adult social services functions of an English local authority either by that authority or, by virtue of partnership arrangements under section 75 of the 2006 Act, on that authority’s behalf.

Integrated services provider sub-contract

A6. An integrated services provider sub-contract means a contract for the provision of services provided under an integrated services provider contract, between a party to that integrated services provider contract, or a person providing services under it, and another body, one of the purposes of which is the provision of clinical health services for the NHS.”

Amendment to regulation G14 (Surviving nominated partner’s pension)

5. For regulation G14, substitute—

“Surviving scheme partner’s pension

- G14.**—(1) This regulation applies on the death of a member, if—
- (a) the member has pensionable service on or after 1st April 2008,
 - (b) the member dies in any of the circumstances described in regulations G2 to G6, and
 - (c) the member leaves a surviving scheme partner.
- (2) If this regulation applies, a surviving scheme partner is entitled to a surviving scheme partner’s pension.
- (3) A surviving scheme partner’s pension is calculated and paid—

- (a) in accordance with regulations G1 to G6, as they apply to pensions for widows, and
- (b) excluding any part of the member's benefit that is based on pensionable service before 6th April 1988.

(4) Paragraph 3(b) is subject to the following—

- (a) If regulation G2(3) or (3C) or regulation G4(2) or (2A) applies to the calculation of a surviving scheme partner's pension on a member's death in pensionable employment or with a preserved pension—
 - (i) the whole of the member's pensionable service is taken into account when calculating whether and, if so, the extent to which there would have been an increase, by the application of regulation E2(3) or regulation E2A(4), in the pensionable service on which the member's pension, under regulation E2 or regulation E2A, would have been based, and
 - (ii) the whole period (if any) by which the member's pension would have increased, is treated, in this regulation, as pensionable service after 5th April 1988 for the purpose of calculating a surviving scheme partner's pension;
- (b) If regulation G3 applies, so that the surviving scheme partner's pension is equal to the member's pension for a limited period, the surviving scheme partner's pension for that limited period is equal to the whole of the member's pension.

(5) If regulation G6 applies, paragraph (1) of regulation G6 is read as if the words “where the member and his wife were not married to each other during a period of pensionable employment” are replaced with “if the Secretary of State is not satisfied that a member's partner was the member's scheme partner for a continuous period of at least two years ending on the member's last day of pensionable service”.

(6) A reference in these Regulations to regulation G1 to G6 means, in relation to benefits in respect of a member who has a scheme partner, those regulations as applicable to the member's surviving scheme partner.

(7) A person is the scheme partner of a member if —

- (a) the member and the partner are living together as if they were husband and wife or civil partners,
- (b) the member and the partner are not prevented from marrying or entering into a civil partnership,
- (c) the member and the partner are financially interdependent or the partner is financially dependent on the member, and
- (d) neither the member nor the partner is living with a third person as if they were husband and wife or as if they were civil partners.

(8) A person is a surviving scheme partner of a member if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member's death, the person was the scheme partner of that member.

Consequential amendments to changes to regulation G14

6.—(1) In regulation F5(12)(d) (Payment of lump sum), for “nominated partner” substitute “surviving scheme partner”.

(2) In regulation G6(4) (Member marries after leaving pensionable employment)—

- (a) for “nominated partner” substitute “scheme partner”;
- (b) for “nominated partner's pension” substitute “scheme partner's pension”;
- (c) for “nominated partner pension” substitute “surviving scheme partner's pension”.

7. In regulation H3(a) (Member dies in pensionable employment)—

- (a) in paragraphs (4A) and (4D), for “nominated partner” substitute “surviving scheme partner”;
- (b) in paragraphs (4B) and (4C)—
 - (i) for “nominated partner’s pensions” substitute “surviving scheme partner’s pension”;
 - (ii) for “nominated partner” substitute “scheme partner”.
- (c) in paragraph (4E), for “nominated partner” substitute “scheme partner”.

8. In regulation H4 (Member dies after pension becomes payable)—

- (a) in paragraphs (3)(b) and (4)(c), for “nominated partner” substitute “surviving scheme partner”;
- (b) in paragraph (5)—
 - (i) for “nominated partner”(d) substitute “scheme partner”;
 - (ii) for “nominated partner’s pension”(e) substitute “surviving scheme partner’s pension”.
- (c) in paragraphs (6)(f) and (7)(g)—
 - (i) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”;
 - (ii) for “surviving nominated partner” substitute “surviving scheme partner”.

9. In regulation H5 (Member dies with preserved pension)—

- (a) in paragraphs (4)(h) and (5)(i), for “nominated partner” substitute “surviving scheme partner”;
- (b) in paragraph (6)(j)—
 - (i) for “nominated partner” substitute “scheme partner”;
 - (ii) for “nominated partner’s pension” substitute “scheme partner’s pension”.

10. In the following references in regulation H7 (Dependent child not being maintained by surviving parent or spouse or civil partner or nominated partner of a parent), for “nominated partner” substitute “surviving scheme partner”—

- (a) the heading(k);
- (b) paragraphs (1)(l) and (2)(m).

11. In regulation Q1 (Right to buy additional services), in paragraph (5B)(n)—

- (a) for “nominated partner’s pension” substitute “scheme partner’s pension”;
- (b) for “nominated partner” substitute “surviving scheme partner”.

12. In regulation S4(o) (Benefits on death in pensionable employment after pension under regulation E2 becomes payable)—

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- (a) Paragraphs (4A) to (4E) inserted by regulation 31(1) and (4) of S.I. 2008/654.
 - (b) “Nominated partner” was inserted by regulation 32(1), (3) of S.I. 2008/654.
 - (c) Regulation H4(4) was inserted by regulations 2 and 12 of S.I. 2013/413.
 - (d) “Nominated partner” was inserted by regulation 8(b)(i) of by S.I. 2009/381
 - (e) “Nominated partner’s pensions” was inserted by regulation 8(b)(ii) of by S.I. 2009/381
 - (f) As amended by regulation 8(c)(i) and (ii) of S.I. 2009/381.
 - (g) As amended by regulation 8(d)(i) and (ii) of S.I. 2009/381.
 - (h) “Nominated partner” was inserted by regulation 33(1), (5)(a) of S.I. 2008/654.
 - (i) “Nominated partner” was inserted by regulation 33(1), (5)(a) of S.I. 2008/654
 - (j) As amended by regulation 33(1), (6)(a) and (b) of S.I. 2008/654.
 - (k) As amended by regulation 34(1) of S.I. 2008/654.
 - (l) As amended by regulation 34(2) of S.I. 2008/654.
 - (m) As amended by regulation 34(2) of S.I. 2008/654.
 - (n) As amended by regulation 45(1) and (5) of S.I. 2008/654.
 - (o) As amended by regulation 60 of S.I. 2008/654.

- (a) in paragraphs (4), (6), (10) and (11), for each reference to “nominated partner” substitute “scheme partner” and for “nominated partner’s” substitute “scheme partner’s”;
- (b) in paragraph (12)(b), for “nominated partner” substitute “surviving scheme partner’s”.

13. In regulation S4A(a) (Benefits on death in pensionable employment after pension under regulation E2A becomes payable)—

- (a) in paragraphs (7), (9) and (13) to (15), for each reference to “nominated partner” substitute “scheme partner” and for “nominated partner’s” substitute “scheme partner’s”;
- (b) in paragraph (12), for “nominated partner’s” substitute “surviving scheme partner’s”.

14.—(1) In the following provisions, for “nominated partner” substitute “surviving scheme partner”—

- (a) regulation G17(2)(b);
- (b) regulation H1(1).

(2) In the following provisions, for each reference to “nominated partner” substitute “scheme partner” and for “nominated partner’s” substitute “scheme partner’s”—

- (a) regulation G9(5)(c);
- (b) regulation G13(6)(d);
- (c) regulation Q5(2B)(e);
- (d) regulation R3(7)(b)(f);
- (e) regulation T6(1A)(g);
- (f) paragraph 16B of Schedule 2(h).

Amendment to regulation G15 (Dependent surviving nominated partner’s pension)

15.—(1) In regulation G15—

- (a) For paragraph (1), substitute—

“(1) A member may apply for the member’s scheme partner to receive a dependent surviving scheme partner’s pension on the member’s death.

(1A) An application must—

- (a) be made by the member giving notice in writing to the Secretary of State before leaving pensionable employment, and
- (b) be in relation to a person who has been the member’s scheme partner for a continuous period of at least two years on the member’s last day of pensionable service.

- (b) For paragraph (3), substitute—

“(3) If the Secretary of State has accepted a member’s application and the member subsequently dies before the member’s scheme partner, a scheme partner entitled to a surviving scheme partner’s pension is entitled to a dependent surviving scheme partner’s pension.

(2) In the following instances in regulation G15—

- (a) for each use of “nominated partner’s” substitute “scheme partner’s”—

(a) As inserted by regulation 61 of S.I. 2008/654.
 (b) As inserted by regulation 29 of S.I. 2008/654.
 (c) As amended by regulation 25(1), (3) of S.I. 2008/654.
 (d) Regulation G15 was originally inserted by regulation 2(1), (6) of S.I. 2005/3074
 (e) As inserted by regulation 48 of S.I. 2008/654.
 (f) As inserted by regulation 52(b) of S.I. 2008/654.
 (g) Regulation T6(1A) was originally inserted by regulation 2, Schedule, para 4(a) of S.I. 2003/631.
 (h) As inserted by regulation 65(1), (13) of SI 2008/654.

- (i) the heading;
- (ii) paragraph (4);
- (iii) paragraph (5).
- (b) for each use of “nominated partner” substitute “scheme partner”—
 - (i) paragraph (2);
 - (ii) paragraph (6).

Amendment to regulation U3 (Accounts and actuarial reports)

16. In regulation U3(9), before “An employing authority”, insert “Where the Secretary of State so requests,”.

Amendment to Schedule 2 (Medical and Dental Practitioners)

17. In schedule 2—

- (a) in paragraphs 3(2)(a)(i), 6(1)(a) and 6(4)(g) after “is an employing authority” insert “, an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority”;
- (b) in paragraph 3(2)(e) before “health-related functions” insert “payments made to such a person by an employing authority or a local authority in respect of”;
- (c) in paragraph 10(2S), of Schedule 2 for “NDPS is the number of days of dentist performer service from the date the dentist performer service commenced in the scheme year to the end of the scheme year(a)” substitute “NDPS is the number of days of dentist performer’s service in the scheme year”.

Amendment to Schedule 2B (Independent providers)

18. In schedule 2B—

- (a) in paragraph 3(a), after—
 - (i) “pursuant to a qualifying contract” insert “that is not an integrated services provider contract or an integrated services provider sub-contract,”.
 - (ii) “50% of that time;” insert—
 - “(aa) requires that any employee of an Independent Provider performing services pursuant to a qualifying contract that is an integrated services provider contract or an integrated services provider sub-contract, performs clinical health services for the NHS if not for the whole of that time in that employment, then for more than 50% of that time;”.
- (b) for paragraph 41, substitute—

“**41.** Where an Independent Provider fails to pay an employer contribution surcharge, it is liable to pay the supplementary 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 supplementary charges may be levied in respect of it.”.

(a) Paragraph 10(2S) was inserted by S.I. 2014/570, see regulation 16(7)(b).

PART 3

Amendments to the National Health Service Pension Scheme Regulations 2008

General

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

Amendment to regulation 2.A.1 (Interpretation: general)

20. In regulation 2.A.1—

- (a) In the appropriate place, insert—
 - ““the health service” has the meaning given in section 275 of the 2006 Act;”;
 - ““integrated services provider contract” is to be construed in accordance with regulation 2.A.16;”;
 - ““integrated services provider sub-contract” is to be construed in accordance with regulation 2.A.17;”.
- (b) in the definition of “NHS standard sub-contract(b)”, for the words after “guidance” substitute ““NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance(c).”;
- (c) in the definition of “practice staff” after “(c) services pursuant to an NHS standard sub contract where the party to the NHS standard contract in question is an employing authority;” insert—
 - “(cc) an integrated services provider sub-contract where the party to the integrated services provider contract is an employing authority;”.
- (d) for the definition of “qualifying contract” substitute—
 - ““qualifying contract” means—
 - (a) a contract between a relevant commissioning party and an Independent Provider, the primary purpose of which is the provision of clinical health services for the NHS and which is—
 - (i) an NHS standard contract;
 - (ii) an APMS contract;
 - (iii) a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes; or
 - (iv) an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority; or
 - (b) an integrated services provider contract; or
 - (c) an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority;”.

(a) S.I. 2008/653; relevant amending instruments are [SI 2009/381, 2013/413, 2016/245, 2017/275 [those that amend the regs being amended by this SI] <http://www.legislation.gov.uk/changes>

(b) This definition was inserted by regulation 21(e) of S.I. 2016/245 and amended by regulation 3(3) of S.I. 2017/275.

(c) Electronic copies of the guidance referred to in that definition can be obtained from www.gov.uk/dh. Hard copies may be obtained from the Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

New regulation 2.A.16 (Integrated services provider contract) and 2.A.17 (Integrated services provider sub-contract)

21. After regulation 2.A.15 (out of hours providers) insert—

“Integrated services provider contract

2.A.16.—(1) This regulation prescribes the requirements for a contract to be an integrated services provider contract for the purposes of these Regulations.

(2) An integrated services provider contract must be between—

- (a) one or more of the persons specified in paragraph (3) on the one part; and
- (b) a provider of integrated services on the other part.

(3) The persons for the purposes of paragraph (2)(a) are—

- (a) the National Health Service Commissioning Board;
- (b) a Clinical Commissioning Group;
- (c) an English local authority.

(4) An integrated services provider contract must not be entered into before 1st April 2018.

(5) An integrated services provider contract must relate to the provision [for the persons specified in paragraph (3)?] of two or more of the services specified in paragraph (6).

(6) The services are—

- (a) primary medical services;
- (b) [give title of services and then define in (8)];
- (c) public health services;
- (d) adult social care services.

(7) For the purposes of paragraph 6(a) primary medical services are services which, as part of the health service, the National Health Service Commissioning Board considers it appropriate to secure the provision of under section 83(2) of the 2006 Act (primary medical services);

(8) For the purposes of paragraph (6)(b) [title] are such services, accommodation or facilities as a clinical commissioning group considers it appropriate to make arrangements for the provision of for the purposes of the health service—

- (a) under or by virtue of section 3 (duties of clinical commissioning groups as to commission of health services) or 3A (power of clinical commissioning groups to commission certain health services) of the 2006 Act; or
- (b) which the National Health Service Commissioning Board is required by the Secretary of State to commission by virtue of regulations made under 3B (power to require Board to commission certain health services) of the 2006 Act.

(9) For the purposes of paragraph (6)(c), public health services are services which, as part of the health service, are provided—

- (a) pursuant to the exercise of the public health functions of the Secretary of State under the following provisions of the 2006 Act—
 - (i) section 2A (Secretary of State’s duty as to protection of public health);
 - (ii) section 2B (functions of local authorities and Secretary of State as to improvement of public health) or;
 - (iii) paragraphs 7C, 8 or 12 of Schedule 1 (further provision about the Secretary of State and services under this Act);
- (b) pursuant to the exercise of the public health functions of local authorities under the following provisions of the 2006 Act—

- (i) section 2B (functions of local authorities and Secretary of State as to improvement in public health);
 - (ii) section 111 (dental public health); or
 - (iii) paragraphs 1 to 7B or 13 of Schedule 1 (further provision about Secretary of State and services under this Act);
- (c) pursuant to arrangements where the local authority is required to exercise any of the public health functions of the Secretary of State by virtue of regulations made under section 6C of the 2006 Act (regulations as to the exercise by local authorities of certain public health functions); or
- (d) pursuant to arrangements made by the National Health Service Commissioning Board, a clinical commissioning group or a local authority, where those bodies are acting pursuant to arrangements made under section 7A of the 2006 Act (exercise of the Secretary of State’s public health functions).
- (10) Paragraphs (9)(a) and (b) include such functions when they are exercised by an NHS body under section 75 partnership arrangements.
- (11) For the purposes of paragraph (6)(d), adult social care services are services provided pursuant to the exercise of the adult social services functions of an English local authority either by that authority or, by virtue of partnership arrangements under section 75 of the 2006 Act, on that authority’s behalf.

Integrated services provider sub-contract

2.A.17 . An integrated services provider sub-contract means a contract for the provision of services provided under an integrated services provider contract, between a party to that integrated services provider contract, or a person providing services under it, and another body, one of the purposes of which is the provision of clinical health services for the NHS.”

Amendments to regulation 2.E.2 (Meaning of “surviving nominated partner”)

22. For regulation 2.E.2 substitute—

Meaning of “surviving scheme partner”

2.E.2. In this Part, a person is a “surviving scheme partner” if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and the person were living together as if they were husband and wife or civil partners,
- (b) the member and the person were not prevented from marrying or entering into a civil partnership,
- (c) the member and the person were financially interdependent or the partner was financially dependent on the member, and
- (d) neither the member nor the partner is living with a third person as if they were husband and wife or as if they were civil partners.

Amendment to regulation 2.J.14 (Employing authority and certain member record keeping and contribution estimates)

23. In regulation 2.J.14—

(a) for paragraph (2) substitute—

(2) As regards a GMS or a PMS practice or an APMS contractor, in respect of each scheme year, the practice or contractor must provide the host Board with a statement of

estimated pensionable earnings in respect of any non-GP provider that is a GMS or PMS practice or APMS contractor at least 1 month before the beginning of that scheme year.²¹

(b) for paragraph (12) substitute—

²²(12) Where the Secretary of State so requests, in respect of each scheme year an employing authority must, 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 due under regulations 2.C.1, 2.C.5 and 2.C.8.²³

Amendment to regulation 2.M.1 (Independent Providers: general)

24. In paragraph 2.M.1(3)(a) after—

(a) “pursuant to a qualifying contract” insert “that is not an integrated services provider contract or an integrated services provider sub-contract”;

(b) “50% of that time;” insert—

“(aa) requires that any employee of an Independent Provider performing services pursuant to a qualifying contract that is an integrated services provider contract or an integrated services provider sub-contract, performs clinical health services for the NHS if not for the whole of that time in that employment, then for more than 50% of that time;”.

Amendment to regulation 3.A.1 (Interpretation of Part 3: general)

25. In regulation 3.A.1—

(a) after the definition of “Integrated Provider” insert—

““integrated services provider contract” is to be construed in accordance with regulation 3.A.1B;”

““integrated services provider sub-contract” is to be construed in accordance with regulation 3.A.1C;”.

(b) in the definition of “NHS standard sub-contract(a)”, for the words after “guidance” substitute ““NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance(b)””;

(c) in the definition of “practice staff” after “(c) services pursuant to an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority;” insert—

“(cc) an integrated services provider sub-contract where the party to the integrated services provider contract is an employing authority;”.

(d) for the definition of “qualifying contract” substitute—

““qualifying contract” means—

(a) a contract between a relevant commissioning party and an Independent Provider, the primary purpose of which is the provision of clinical health services for the NHS and which is—

(i) an NHS standard contract;

(ii) an APMS contract;

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

(a) This definition was inserted by regulation 21(e) of S.I. 2016/245 and amended by regulation 3(3) of S.I. 2017/275.

(b) Electronic copies of the guidance referred to in that definition can be obtained from www.gov.uk/dh. Hard copies may be obtained from the Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

- (iv) an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority; or
- (b) an integrated services provider contract; or
- (c) an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority;”.

New regulation 3.A.1B (Integrated services provider contract) and 3.A.1C (Integrated services provider sub-contract)

26. After regulation 3.A.1A (civil partnerships and marriage of same sex couples) insert—

“Integrated services provider contract

3.A.1B.—(1) This regulation integrated services provider contract Services Provider Contract for the purposes of these Regulations.

(2) An integrated services provider contract must be between—

- (a) one or more of the persons specified in paragraph (3) on the one part; and
- (b) a provider of integrated services on the other part.

(3) The persons for the purposes of paragraph (2)(a) are—

- (a) the National Health Service Commissioning Board;
- (b) a Clinical Commissioning Group;
- (c) an English local authority.

(4) An integrated services provider contract must not be entered into before 1st April 2018.

(5) An integrated services provider contract must relate to the provision [for the persons specified in paragraph (3)?] of two or more of the services specified in paragraph (6).

(6) The services are—

- (a) primary medical services;
- (b) [give title of services and then define in (8)];
- (c) public health services;
- (d) adult social care services.

(7) For the purposes of paragraph 6(a) primary medical services are services which, as part of the health service, the National Health Service Commissioning Board considers it appropriate to secure the provision of under section 83(2) of the 2006 Act (primary medical services);

(8) For the purposes of paragraph (6)(b) [title] are such services, accommodation or facilities as a clinical commissioning group considers it appropriate to make arrangements for the provision of for the purposes of the health service—

- (a) under or by virtue of section 3 (duties of clinical commissioning groups as to commission of health services) or 3A (power of clinical commissioning groups to commission certain health services) of the 2006 Act; or
- (b) which the National Health Service Commissioning Board is required by the Secretary of State to commission by virtue of regulations made under 3B (power to require Board to commission certain health services) of the 2006 Act.

(9) For the purposes of paragraph (6)(c), public health services are services which, as part of the health service, are provided—

- (a) pursuant to the exercise of the public health functions of the Secretary of State under the following provisions of the 2006 Act—
 - (i) section 2A (Secretary of State’s duty as to protection of public health);

- (ii) section 2B (functions of local authorities and Secretary of State as to improvement of public health) or;
 - (iii) paragraphs 7C, 8 or 12 of Schedule 1 (further provision about the Secretary of State and services under this Act);
 - (b) pursuant to the exercise of the public health functions of local authorities under the following provisions of the 2006 Act—
 - (i) section 2B (functions of local authorities and Secretary of State as to improvement in public health);
 - (ii) section 111 (dental public health); or
 - (iii) paragraphs 1 to 7B or 13 of Schedule 1 (further provision about Secretary of State and services under this Act);
 - (c) pursuant to arrangements where the local authority is required to exercise any of the public health functions of the Secretary of State by virtue of regulations made under section 6C of the 2006 Act (regulations as to the exercise by local authorities of certain public health functions); or
 - (d) pursuant to arrangements made by the National Health Service Commissioning Board, a clinical commissioning group or a local authority, where those bodies are acting pursuant to arrangements made under section 7A of the 2006 Act (exercise of the Secretary of State’s public health functions).
- (10) Paragraphs (9)(a) and (b) include such functions when they are exercised by an NHS body under section 75 partnership arrangements.
- (11) For the purposes of paragraph (6)(d), adult social care services are services provided pursuant to the exercise of the adult social services functions of an English local authority either by that authority or, by virtue of partnership arrangements under section 75 of the 2006 Act, on that authority’s behalf.

Integrated services provider sub-contract

3.A.1C. An integrated services provider sub-contract means a contract for the provision of services provided under an integrated services provider contract, between a party to that integrated services provider contract, or a person providing services under it, and another body, one of the purposes of which is the provision of clinical health services for the NHS.”

Amendment to regulation 3.A.7 (meaning of pensionable earnings)

27. In regulation 3.A.7(2)—

- (a) in sub-paragraph (e), after “any sums paid” insert “by an employing authority or a local authority”;
- (b) in sub-paragraph (g) after “employing authority” insert “or an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority”.

Amendment to regulation 3.A.13 (meaning of pensionable earnings in relation to other practitioners)

28.—(1) In regulation 3.A.13(1)—

- (a) in sub-paragraph (d), after “any sums paid” insert “by an employing authority or a local authority”;
- (b) in sub-paragraph (e), after “employing authority” insert “or an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority”.

(2) In regulation 3.A.13(4)—

- (a) after “2006 Act” insert “pursuant to a contract with an employing authority or a local authority”;
- (b) after “employing authority” insert “or an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority”.

Amendment to regulation 3.C.2 (Member’s contribution rate)

29. In regulation 3.C.2(16) for “NDPS is the number of days of dentist performer service from the date the dentist performer service commenced in the scheme year to the end of the scheme year(a)”, substitute “NDPS is the number of days of dentist performer service in the scheme year”.

Amendments to regulation 3.E.2 (Meaning of “surviving nominated partner”)

30. For regulation 3.E.2 substitute—

Meaning of “surviving scheme partner”

3.E.2. In this Part, a person is a “surviving scheme partner” if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and the person were living together as if they were husband and wife or civil partners,
- (b) the member and the person were not prevented from marrying or entering into a civil partnership,
- (c) the member and the person were financially interdependent or the partner was financially dependent on the member, and
- (d) neither the member nor the partner is living with a third person as if they were husband and wife or as if they were civil partners.

Amendment to regulation 3.J.14 (Employing authority and certain member record keeping and contribution estimates)

31. In regulation 3.J.14—

- (a) in paragraph (14)(a) before “provide the Secretary of State” insert “where the Secretary of State so requests,”;
- (b) in paragraph (15) for the first reference to “2 months after the end” substitute “1 month before the beginning”.

Consequential changes further to introduction of “surviving scheme partner”

32.—(1) In the following provisions, for each reference to “nominated partner” substitute “scheme partner” and for “nominated partner’s” substitute “scheme partner’s”—

- (a) regulation 2.E.1(2);
- (b) regulation 2.E.9(2)(d);
- (c) regulation 3.E.1(2);
- (d) regulation 3.E.9(2)(d).

(2) In the following provisions, for each reference to “nominated partner” substitute “surviving scheme partner”—

- (a) regulation 2.E.9(2)(e) and (f);

(a) Paragraph (16) was amended by S.I. 2014/570, see regulation 42(2).

- (b) regulation 2.J.7(5)(a);
 - (c) regulation 3.E.9(2)(e) and (f);
 - (d) regulation 3.J.7(5)(a).
- (3) The following provisions are omitted—
- (a) regulation 2.K.20(2)(c);
 - (b) regulation 2.L.2(2)(c);
 - (c) regulation 3.K.12(2)(c);
 - (d) regulation 3.L.2 (2)(c).
- (4) In regulation 2.E.9(2)(d), for “regulation 2.E.2(1)(b)(i)” substitute “regulation 2.E.2(a)”.
- (5) In regulation 3.E.9(2)(d), for “regulation 3.E.2(1)(b)(i)” substitute “regulation 3.E.2(a)”.

PART 4

Amendments to the National Health Service Pension Scheme Regulations 2015

General

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

Amendment to regulation 37 (Members’ contributions: records and estimates)

34. In regulation 37(7), before “An employing authority” insert “Where the scheme manager so requests,”.

Amendment to regulation 38 (Members’ contributions: supplementary: medical practitioners and non-GP providers)

35. In regulation 38(3)(a) for “NDPS is the number of days of group D service from the date M’s service commenced in the scheme year to the end of the scheme year”, substitute “NDPS is the number of days of M’s group D service in the scheme year”.

Amendment to regulation 39 (Members’ contributions: supplementary: dental practitioners)

36. In regulation 39(3)(a) for “NDPS is the number of days of dental practitioner service from the date the dental practitioner service commenced in the scheme year to the end of the scheme year”, substitute “NDPS is the number of days of dental practitioner service in the scheme year”.

Amendment to regulation 114 (Surviving nominated partner)

37. For regulation 114 substitute—

“Surviving scheme partner

114.—(1) A person is the scheme partner of a member if –

- (a) the member and the person are living together as if they are husband and wife or civil partners,
- (b) the member and the person are not prevented from marrying or entering a civil partnership,

(a) S.I. 2015/94; relevant amending instruments are [SI 2016/245, 2017/275 [those that amend the regs being amended by this SI] <http://www.legislation.gov.uk/changes>

- (c) the member and the person are financially interdependent or the person is financially dependent on the member, and
- (d) neither the member or the person is living with a third person as if they are husband and wife or civil partners.

(2) A person is a surviving scheme partner of a member if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the member's death, the person was the scheme partner of that member.

Consequential amendments to changes to regulation 114

38.—(1) In regulation 113(2)(c) (surviving adult dependent pension) for “nominated partner” substitute “scheme partner”.

(2) In regulation 122 (Eligible Child)—

- (a) in paragraph (2)(d), for “nominated partner” substitute “scheme partner”;
- (b) in sub-paragraphs (2)(e)(ii) and (f)(ii), for “nominated partner” substitute “surviving scheme partner”.

(3) In paragraph 12(5)(a) of Schedule 3 (Forfeiture of rights to benefits) for “nominated partner” substitute “surviving scheme partner”.

Amendment to regulation 150 (Independent Providers: interpretation)

39. In regulation 150—

(a) for paragraph (3) substitute—

“(3) A qualifying contract is—

- (a) a contract between a relevant commissioning party and an Independent Provider, the primary purpose of which is the provision of clinical health services for the NHS and which is—
 - (i) an NHS standard contract;
 - (ii) an APMS contract;
 - (iii) a contract entered into by a local authority pursuant to its functions under the 2006 Act relating to the improvement and protection of public health and which the Secretary of State agrees to treat as a qualifying contract for these purposes; or
 - (iv) an NHS standard sub-contract where the party to the NHS standard contract in question is an employing authority; or
- (b) an integrated services provider contract; or
- (c) an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority;”.

(b) for paragraph (4) substitute—

“(4) The wholly or mainly condition requires an employee performing services pursuant to a qualifying contract—

- (a) that is not an integrated services provider contract or an integrated services provider sub-contract to do so for more than 50% of the employees' time in that employment,
- (b) that is an integrated services provider contract or an integrated services provider sub-contract to perform clinical health care services for the NHS for more than 50% of that time.”.

(c) in paragraph (8) after the definition of “IP guarantee” insert—

““integrated services provider contract” is to be construed in accordance with regulation 150A;

“integrated services provider sub-contract” is to be construed in accordance with regulation 150B;”.

New regulations 150A (Integrated services provider contract) and 150B (Integrated services provider sub contract)

40. After regulation 150 insert—

“Integrated services provider contract

150A.—(1) This regulation prescribes the requirements for a contract to be an integrated services provider contract for the purposes of these Regulations.

(2) An integrated services provider contract must be between—

- (a) one or more of the persons specified in paragraph (3) on the one part; and
- (b) a provider of integrated services on the other part.

(3) The persons for the purposes of paragraph (2)(a) are—

- (a) the National Health Service Commissioning Board;
- (b) a Clinical Commissioning Group;
- (c) an English local authority.

(4) An integrated services provider contract must not be entered into before 1st April 2018.

(5) An integrated services provider contract must relate to the provision [for the persons specified in paragraph (3)?] of two or more of the services specified in paragraph (6).

(6) The services are—

- (a) primary medical services;
- (b) [give title of services and then define in (8)];
- (c) public health services;
- (d) adult social care services.

(7) For the purposes of paragraph 6(a) primary medical services are services which, as part of the health service, the National Health Service Commissioning Board considers it appropriate to secure the provision of under section 83(2) of the 2006 Act (primary medical services);

(8) For the purposes of paragraph (6)(b) [title] are such services, accommodation or facilities as a clinical commissioning group considers it appropriate to make arrangements for the provision of for the purposes of the health service—

- (a) under or by virtue of section 3 (duties of clinical commissioning groups as to commission of health services) or 3A (power of clinical commissioning groups to commission certain health services) of the 2006 Act; or
- (b) which the National Health Service Commissioning Board is required by the Secretary of State to commission by virtue of regulations made under 3B (power to require Board to commission certain health services) of the 2006 Act.

(9) For the purposes of paragraph (6)(c), public health services are services which, as part of the health service, are provided—

- (a) pursuant to the exercise of the public health functions of the Secretary of State under the following provisions of the 2006 Act—
 - (i) section 2A (Secretary of State’s duty as to protection of public health);
 - (ii) section 2B (functions of local authorities and Secretary of State as to improvement of public health) or;
 - (iii) paragraphs 7C, 8 or 12 of Schedule 1 (further provision about the Secretary of State and services under this Act);

- (b) pursuant to the exercise of the public health functions of local authorities under the following provisions of the 2006 Act—
 - (i) section 2B (functions of local authorities and Secretary of State as to improvement in public health);
 - (ii) section 111 (dental public health); or
 - (iii) paragraphs 1 to 7B or 13 of Schedule 1 (further provision about Secretary of State and services under this Act);
- (c) pursuant to arrangements where the local authority is required to exercise any of the public health functions of the Secretary of State by virtue of regulations made under section 6C of the 2006 Act (regulations as to the exercise by local authorities of certain public health functions); or
- (d) pursuant to arrangements made by the National Health Service Commissioning Board, a clinical commissioning group or a local authority, where those bodies are acting pursuant to arrangements made under section 7A of the 2006 Act (exercise of the Secretary of State’s public health functions).

(10) Paragraphs (9)(a) and (b) include such functions when they are exercised by an NHS body under section 75 partnership arrangements.

(11) For the purposes of paragraph (6)(d), adult social care services are services provided pursuant to the exercise of the adult social services functions of an English local authority either by that authority or, by virtue of partnership arrangements under section 75 of the 2006 Act, on that authority’s behalf.

Integrated services provider sub-contract

150B. An integrated services provider sub-contract means a contract for the provision of services provided under an integrated services provider contract, between a party to that integrated services provider contract, or a person providing services under it, and another body, one of the purposes of which is the provision of clinical health services for the NHS.”

Amendment to regulation 151 (Application for employing authority status)

41. For regulation 151(4)(c), substitute—

- “(c) who—
 - (i) is performing services pursuant to a qualifying contract; and
 - (ii) satisfies the wholly or mainly condition.”

Amendment to Schedule 9 (Pension accounts)

42. In paragraph 3 (meaning of “leaver index adjustment”)—

- (a) in sub-paragraph (1), for all the words before “Step 1”, substitute—
 - “(1) Subject to sub-paragraph 2A, the leaver index adjustment for an amount of accrued earned pension other than an amount of club transfer accrued earned pension is an amount calculated as follows—”;
- (b) for sub-paragraph (2), substitute—
 - “(2) Subject to sub-paragraph 2A, the leaver index adjustment for an amount of club transfer accrued earned pension is the adjustment that would apply under the sending scheme to an amount of accrued earned pension equal to the amount of club transfer accrued earned pension specified in the active member’s account at the end of the relevant last day.”

Amendment to Schedule 10 (Practitioner income)

43. In schedule 10—

- (a) in paragraph 1 (interpretation): after “commissioned services” insert—
 - ““integrated services provider contract” is to be construed in accordance with regulation 150A;”,
 - ““integrated services provider sub-contract” is to be construed in accordance with regulation 150B;”.
- (b) in paragraph 2 (medical practitioner): in sub-paragraph (k) after “employing authority” insert “or an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority”.
- (c) in Case 5 after “Payments” insert “made by an employing authority or a local authority”.
- (d) in paragraph 7 (locum practitioner): in sub-paragraph (3)(h) after “employing authority” insert “, an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority”.

Amendment to Schedule 15 (Definitions)

44. In schedule 15—

- (a) after the expression “host board”, in Column 1 insert “integrated services provider contract” and for the corresponding entry in Column 2 insert “is to be construed in accordance with regulation 150A”;
- (b) after the expression “integrated services provider contract” as inserted by these Regulations, in Column 1 insert “integrated services provider sub-contract” and for the corresponding entry in Column 2 insert “is to be construed in accordance with regulation 150B”;
- (c) after the expression “lifetime allowance”, in Column 1 insert “local authority” and for the corresponding entry in Column 2 insert “is to be construed in accordance with Schedule 10”;
- (d) for the expression “NHS standard sub-contract(a)”, substitute “a sub-contract that complies with the Department of Health guidance “NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance”(b)”;
- (e) In the expression “practice staff” after sub-paragraph (c) insert—
 - “(cc) services pursuant to an integrated services provider sub-contract where the party to the integrated services provider contract in question is an employing authority;”.

PART 5

Amendments to the National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000

General

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

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- (a) This definition was inserted by regulation 58, 89(c) of S.I. 2016/245.
 - (b) Electronic copies of the guidance referred to in that definition can be obtained from www.gov.uk/dh. Hard copies may be obtained from the Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.
 - (c) S.I. 2000/619 amended S.I. 2001/1428, 2001/3649, 2002/610, 2005/3074, 2006/600, 2007/3280, 2008/655, 2009/2446 (with retrospective effect), 2010/492, 2011/2586, 2013/413, 2014/78, 2015/96, 2016/245.

‘Surviving scheme partner’ and consequential amendments

46.—(1) In regulation 2 (Interpretation)—

(a) In paragraph (1), in the definition of “dependant”, sub-paragraph (d), for “nominated partner” substitute “scheme partner”,

(b) For paragraphs (1A) to (1C), substitute—

■(1A) A person is the scheme partner of a contributor if —

- (a) the contributor and the partner are living together as if they were husband and wife or civil partners,
- (b) the contributor and the partner are not prevented from marrying or entering into a civil partnership,
- (c) the contributor and the partner are financially interdependent or the partner is financially dependent on the contributor, and
- (d) neither the contributor nor the partner is living with a third person as if they were husband and wife or as if they were civil partners.

(1B) A person is a surviving scheme partner of a contributor, if the Secretary of State is satisfied that for a continuous period of at least two years, ending with the contributor’s death, the person was the scheme partner of that contributor.■.

(2) In regulation 15(3) (Payments by the Secretary of State), in sub-paragraph (a) and paragraphs (b)(i) and (ii), for “nominated partner” substitute “surviving scheme partner”.

(3) In Schedule 2 (Pension Sharing On Divorce Or Nullity Of Marriage), paragraph 11 (Payment of lump sum on death), in paragraph (2), in each place, and sub-paragraph (2)(a), for “nominated partner” substitute “surviving scheme partner”.

PART 6

Amendments to the National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015

General

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

Amendment to regulation 5 (Nominations, notices and declarations)

48. In the Table in regulation 5(1)—

(a) In column 1, omit the following entries in full—

- (i) starting “A notice given for the purposes of regulation G14 of the 1995 Regulations ...”;
- (ii) starting “A declaration made for the purpose of regulation 2.E.2 or 3.E.2 of the 2008 Regulations...”.

(b) In column 2, omit in full the entry starting “A declaration made for the purpose of regulation 114 of the 2015 Regulations...”.

Signed by authority of the Secretary of State for Health

Name
Minister of State for Health

(a) S.I. 2015/95.

Date

Department of Health

We consent

Name

Name

Date

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)