

2000 No. 605

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The National Health Service (Pension Scheme and
Compensation for Premature Retirement) Amendment
Regulations 2000**

<i>Made</i>	- - -	<i>10th March 2000</i>
<i>Laid before Parliament</i>		<i>13th March 2000</i>
<i>Coming into force—</i>		
<i>for the purposes of regulation 8</i>		<i>31st March 2000</i>
<i>for all other purposes</i>		<i>1st April 2000</i>

The Secretary of State for Health in exercise of the powers conferred by sections 10(1) and (2) and 24 of, and Schedule 3 to, the Superannuation Act 1972(a) and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to him to be appropriate(b), and with the consent of the Treasury(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Pension Scheme and Compensation for Premature Retirement) Amendment Regulations 2000 and shall come into force—

- (a) for the purposes of regulation 8, on 31st March 2000;
- (b) for all other purposes, on 1st April 2000.

(2) In these Regulations—

“the Compensation Regulations” means the National Health Service (Compensation for Premature Retirement) Regulations 1981(d); and

“the Pension Scheme Regulations” means the National Health Service Pension Scheme Regulations 1995(e).

Amendment of the Pension Scheme Regulations

2. The Pension Scheme Regulations shall be amended in accordance with regulations 3 to 15 below.

Amendment of regulation A2

3. In regulation A2 (interpretation)—

- (a) in the definition of “dental pilot scheme employee”(f) for the words “an individual”, in the second place where they occur, there shall be substituted the words “a person”;

(a) 1972 c. 11. Subsection (1) of section 10 was amended by 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).

(b) See section 10(4) of the Superannuation Act 1972.

(c) 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).

(d) S.I. 1981/1263; the relevant amending instrument is S.I. 1985/1659.

(e) S.I. 1995/300, as amended by S.I. 1997/80, 1888, 1998/666, 2216.

(f) This definition was inserted by S.I. 1998/2216.

- (b) in the definition of “employing authority”–
 - (i) for paragraph (a) there shall be substituted the following paragraphs:–
 - “(a) a Health Authority established under section 8 of the National Health Service Act 1977^(a);
 - (aa) a Special Health Authority established under section 11 of that Act^(b)”;
 - (ii) paragraph (b) shall be omitted,
 - (iii) before paragraph (c) there shall be inserted the following paragraph:–
 - “(bb) a Primary Care Trust established under section 16A of that Act^(c)”;
- (c) in the definition of “medical pilot scheme employee”^(d) for the words “an individual”, in the second place where they occur, there shall be substituted the words “a person”;
- (d) in the definition of “NHS dental employee”^(e) after paragraph (a) there shall be inserted the following paragraph:–
 - “(aa) a Primary Care Trust”;
- (e) in the definition of “specialist” after the word “consultant” there shall be inserted the words “, other than a nurse consultant, or a”.

Amendment of regulation B2

4. In regulation B2 (restrictions on membership) in paragraph (e) after the word “trust” there shall be inserted the words “or a Primary Care Trust”.

Amendment of regulation E3

5.—(1) In paragraph (1) of regulation E3 (early retirement pension—redundancy, etc.) for the words from “certifies” to the end of the paragraph there shall be substituted the following words:–

“certifies–

- (i) that the member’s employment is terminated by reason of redundancy, or
- (ii) with the agreement of the employing authority, that the member’s employment is terminated in the interests of the efficiency of the service in which he is employed.”.

(2) In paragraph (4)(c) of that regulation after the word “trust” there shall be inserted the words “or a Primary Care Trust”.

Amendment of regulation E4

6. In regulation E4 (early retirement pension—employer’s consent) in paragraph (4)(c) after the word “trust” there shall be inserted the words “or a Primary Care Trust”.

Amendment of regulation F5

7. For paragraphs (1) to (3) of regulation F5 (payment of lump sum) there shall be substituted the following paragraphs:–

“(1) A lump sum under any of regulations F1 to F4 shall be paid in accordance with the following paragraphs.

(2) Unless paragraph (3) or (3A) below applies, the lump sum shall be paid to the member’s personal representative.

(3) Where the member dies and leaves a widow or widower, the lump sum may be paid to the widow or widower, unless–

- (a) the member has given notice to the Secretary of State in accordance with paragraph (3B) below that the widow or widower is not to receive the payment, and has not revoked that notice; or
- (b) paragraph (3A) below applies.

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

(a) 1977 c. 49; section 8 was substituted by section 1 of the Health Authorities Act 1995 (c. 19) (“the 1995 Act”) and amended by paragraph 5 of Schedule 4 to the Health Act 1999 (c. 8) (“the 1999 Act”).

(b) Section 11 was amended by paragraph 1 of Schedule 1 to the 1995 Act and by paragraph 6 of Schedule 4 to the 1999 Act.

(c) Section 16A was inserted in the National Health Service Act 1977 by section 2(1) of the 1999 Act.

(d) This definition was inserted by S.I. 1998/2216.

(e) This definition was inserted by S.I. 1998/2216.

- (a) that person has died before the payment can be made; or
 - (b) payment to that person is not, in the opinion of the Secretary of State, reasonably practicable.
- (3B) Notice to the Secretary of State for the purpose of paragraph (3) or (3A) above—
- (a) shall be given only by a member who is in pensionable service under the scheme;
 - (b) shall be given in writing; and
 - (c) may at any time be revoked in writing;
- and, subject to sub-paragraph (a) above, a member who revokes such a notice may give further notice for the purpose of one of those paragraphs.
- (3C) A notice given for the purpose of paragraph (3A) above shall specify one person, who may be—
- (a) an individual;
 - (b) a body corporate; or
 - (c) an unincorporated body.”.

Amendment of regulation L1

- 8.** In regulation L1 (preserved pension)—
- (a) for paragraph (2) there shall be substituted the following paragraph:—
 - “(2) The pension under this regulation will be calculated—
 - (a) where it becomes payable by virtue of paragraph (3)(d) below, in accordance with paragraphs (2) to (4) of regulation E5, as if it were a pension under that regulation; and
 - (b) in any other case, as described in regulation E1;
 and the retirement lump sum will be calculated as described in regulation E6.”;
 - (b) in paragraph (3) after sub-paragraph (c) there shall be inserted the following sub-paragraph:—
 - “(d) the member—
 - (i) left pensionable employment after 30th March 2000,
 - (ii) has reached the age of 50, and
 - (iii) has applied to the Secretary of State for payment of the pension and retirement lump sum under this regulation.”;
 - (c) in paragraph (4) for the words from “authority)” to “the pension” there shall be substituted the words—
 - “authority)—
 - (a) in the case of a member to whom sub-paragraph (d) of paragraph (3) above applies, when he makes the application referred to in head (iii) of that sub-paragraph, or
 - (b) in any other case, when he reaches the age of 60,
 the pension”.

Amendment of regulation R1

- 9.** In regulation R1 (practitioners and trainee practitioners) in paragraph (1) for the words “Family Health Services Authority” there shall be substituted the words “Health Authority”.

Amendment of regulation R3

- 10.** In regulation R3 (mental health officers) in paragraph (14)(c) for the words from “consultant” to “dental officer” there shall be substituted the word “specialist”.

Amendment of regulation R5

- 11.** In regulation R5 (part-time employment) in paragraph (6)—
- (a) after the words “ill health)” there shall be inserted the words “or regulation E3 (early retirement pension (redundancy, etc.))”;
 - (b) in sub-paragraph (a) for the words from “calculating” to the end of the sub-paragraph there shall be substituted the following words:—

“calculating–

- (i) whether and (if so) to what extent, the pensionable service upon which the pension under regulation E2 is based should be increased under that regulation, or
 - (ii) the qualifying service for the purposes of regulation E3(1)(a);”;
- (c) in sub-paragraph (b) for the words from “and the increase under regulation E2” there shall be substituted the words “and, in the case of a pension under regulation E2, the increase under that regulation”.

Amendment of regulation R11

12. In regulation R11 (participators in pilot schemes)(a)–

(a) in paragraph (1)–

- (i) in sub-paragraphs (a), (b), (d)(i) and (f) after the words “Health Authority” there shall be inserted the words “or Primary Care Trust”,
- (ii) in sub-paragraphs (g) and (h)(i) after the word “trust” there shall be inserted the words “or Primary Care Trust”,
- (iii) in sub-paragraph (h)(ii) after the word “trust” there shall be inserted the words “, by a Primary Care Trust”;

(b) for paragraph (2) there shall be substituted the following paragraph:–

“(2) In paragraph (1) above, “relevant Health Authority or Primary Care Trust” means the Health Authority or, as the case may be, the Primary Care Trust which has made an agreement with a person for that person to provide piloted services in the area of that Authority or, as the case may be, that Trust.”.

Amendment of Part S

13.—(1) In regulation S1 (suspension of pension on return to NHS employment), in paragraph (1), for the words “in L1(4)” there shall be substituted the words “in L1”.

(2) In regulation S2 (reduction of pension on return to NHS employment), in paragraph (1), for the words “regulations E1 to E5 or L1” there shall be substituted “regulations E1 to E4 or in accordance with regulation L1(2)(b),”.

Insertion of new regulation in Part T

14. In Part T (general rules about benefits), after regulation T7 there shall be inserted the following regulation:–

“Interest on late payment of benefits

T8.—(1) Subject to paragraph (2) below, where the whole or any part of a qualifying payment under these Regulations is not paid by the end of the period of one month beginning with the due date, the Secretary of State shall pay interest, calculated in accordance with paragraph (3) below, on the unpaid amount to the person to whom the qualifying payment should have been made.

(2) Interest under paragraph (1) above shall not be payable where the Secretary of State is satisfied that the qualifying payment was not made on the due date by reason of some act or omission on the part of the member or other recipient of the qualifying payment.

(3) The interest referred to in paragraph (1) above shall be calculated at the base rate on a day to day basis from the due date to the date of payment, and shall be compounded with three-monthly rests.

(4) In this regulation–

“base rate” means the rate for the time being quoted by the reference banks as applicable to sterling deposits or, where there is for the time being more than one such rate, the rate which, when the base rate quoted by each reference bank is ranked in a descending sequence, is the first in the sequence;

“due date” means–

- (a) in the case of a lump sum under Part F above, the day immediately following the day of the member’s death, unless the lump sum falls to be paid to the member’s personal representative, in which case it means–
 - (i) the date on which probate or letters of administration are produced to the Secretary of State, or

(a) Regulation R11 was inserted by S.I. 1998/2216.

- (ii) the Secretary of State is satisfied that the lump sum may be paid as provided in regulation F5(4),
whichever is the earlier;
 - (b) in the case of a pension payable on a member's death, the day immediately following the day of his death;
 - (c) in the case of a pension under regulation L1, the day on which the pension becomes payable in accordance with that regulation;
 - (d) in the case of a refund of contributions, the day after that on which the Secretary of State receives from the Commissioners of Inland Revenue the information he requires for the purposes of compliance with paragraphs (3) to (5) of regulation L2; and
 - (e) in any other case, the day immediately following that of the member's retirement from pensionable employment;
- "qualifying payment" means any amount payable by way of a pension or lump sum, or by way of a refund of contributions, under these Regulations;
- "reference banks" means the four largest institutions for the time being which—
- (a) are authorised by the Financial Services Authority under the Banking Act 1987(a);
 - (b) are incorporated in the United Kingdom and carrying on within it a deposit-taking business (as defined in section 6, but subject to any order under section 7 of that Act); and
 - (c) quote a base rate applicable to sterling deposits.”.

Amendment of Schedule 2

15. In Schedule 2 (medical and dental practitioners)—

- (a) for each reference to a Family Health Services Authority there shall be substituted a reference to a Health Authority;
- (b) in paragraph 1 (additional definitions used in Schedule 2)—
 - (i) after the definition of “Doctors’ Retainer Scheme”(b) there shall be inserted the following definition:—
 - ““Executive Committee” means the committee of a Primary Care Trust appointed under regulation 9(1) of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(c);”;
 - (ii) after the definition of “practitioner service” there shall be inserted the following definition:—
 - ““Primary Care Group” means a committee appointed under regulation 14(1) of the Health Authorities (Membership and Procedure) Regulations 1996(d) in accordance with the Secretary of State’s directions of 15th October 1998 and exercising functions in accordance with the Secretary of State’s directions of 25th March 1999(e);”;
- (c) in paragraph 3(2) (meaning of “pensionable earnings”) after paragraph (c) there shall be inserted the following paragraph:—
 - “(d) personal allowances (but excluding payment made to cover expenses) paid in respect of membership of an Executive Committee or a Primary Care Group.”; and
- (d) in paragraph 6(1) (meaning of “pensionable earnings”—other practitioners)(f) for the words from “means” to the end of the sub-paragraph there shall be substituted the words—
 - “means—
 - (a) all salary, wages, fees and other regular payments paid to the practitioner in respect of his employment as a practitioner, but does not include bonuses or payments made to cover expenses or for overtime; and

(a) 1987 c. 22, as amended by the Bank of England Act 1998 (c. 11).

(b) This definition was inserted by S.I. 1997/1888.

(c) S.I. 2000/89.

(d) S.I. 1996/707, as amended by S.I. 1997/2991, 1998/648 and 1998/2621.

(e) A copy of the directions may be obtained by writing to the Department of Health, PC-GMS, Room 7E60, Quarry House, Leeds LS2 7UE.

(f) Paragraph 6 was amended by S.I. 1998/666.

- (b) personal allowances paid in respect of membership of an Executive Committee or a Primary Care Group.”.

Amendment of the Compensation Regulations

16. In regulation 5 of the Compensation Regulations (crediting of additional period of service) after paragraph (13) there shall be inserted the following paragraphs:–

“(14) For the purposes of paragraph (7)(a) above, where in the case of an entitled officer to whom there is payable a pension under regulation E3 of the National Health Service Pension Scheme Regulations 1995 any part of the service credited under this regulation is service in part-time employment, the compensation payable in relation to that part of that service shall not exceed the relevant amount.

(15) In this regulation–

“the relevant amount” means the amount which bears the same proportion to the amount which would have been payable had the service not been part-time as the whole-time equivalent bears to comparable whole time employment; and

“the whole-time equivalent” has the same meaning as in regulation R5 of the National Health Service Pension Scheme Regulations 1995.”.

Transitional provision

17. Any notice given before 1st April 2000 under paragraph (1) of regulation F5 of the Pension Scheme Regulations (payment of lump sum) as then in force shall be treated on and after that date as if it were a notice given for the purpose of paragraph (3) of that regulation as amended by regulation 7 of these Regulations.

Signed by authority of the Secretary of State for Health.

8th March 2000

We consent,

John Denham
Minister of State,
Department of Health

10th March 2000

Jim Dowd
Clive Betts
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 (“the Pension Scheme Regulations”) which provide for the superannuation of persons engaged in the National Health Service, and—in one respect—the National Health Service (Compensation for Premature Retirement) Regulations 1981 (“the Compensation Regulations”) which provide for the compensation payable in respect of such persons where they retire prematurely by reason of redundancy or in the interests of the efficiency of the Service.

Provision is made in particular for the inclusion in the Scheme of persons employed in Primary Care Trusts, which were established pursuant to Part I of the Health Act 1999 to provide, and arrange the provision of, certain services under the National Health Service Act 1977. For this purpose, amendments are made in regulations B2, E3, E4 and R11 of, and in Schedule 2 to, the Pension Scheme Regulations to include references to Primary Care Trusts, and in regulation A2 to include such Trusts in the definition of “employing authority” and to make related changes in other definitions (regulations 3, 4, 5(2), 6, 12 and 15(b)–(d)).

In relation to early retirement pensions under regulation E3 of the Pension Scheme Regulations, provision is made for a member’s employment to be certified as terminated in the interests of the service only where his employing authority agrees (regulation 5(1)), and for the reckoning of service in part-time employment for the purposes of that pension (regulation 11) and of associated payments under the Compensation Regulations (regulation 16); and new arrangements are made for members to nominate someone other than their surviving spouse as the person who is to receive the lump sum payable on their death, with transitional protection for existing arrangements (regulations 7 and 17). Regulation L1 of the Pension Scheme Regulations is amended to enable a member who leaves pensionable employment after 30th March 2000 with preserved rights to elect to receive an actuarially reduced pension and lump sum after attaining the age of 50 (regulation 8), and Part S is amended to preclude the suspension of such a pension, or of a pension in payment under regulation E5, should the member return (after more than a month) to NHS employment while under the age of 60 (regulation 13). A new regulation T8 is inserted in the Pension Scheme Regulations to provide for interest to be paid in respect of delays in the payment of benefits (regulation 14).

These Regulations also amend the Pension Scheme Regulations to update references to Family Health Services Authorities (regulations 3, 9 and 15(a)), to take account of the introduction of consultant nurses (regulations 3 and 11), and to make other amendments of a minor or consequential nature.

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