



Department  
of Health

Pay and Pensions,  
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8 November 2017

Dear Colleague,

**The National Health Service Pension Scheme and Additional Voluntary Contributions (Amendment) Regulations 2018**

1. This letter is to draw your attention to the above draft Regulations, which will amend:
  - The National Health Service Pension Scheme Regulations 1995
  - The National Health Service Pension Scheme Regulations 2008
  - The National Health Service Pension Scheme Regulations 2015
  - The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000
  - National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015.

**Purpose of the amendments**

2. The main purpose of the Amendment Regulations is to:
  - withdraw the requirement for an unmarried co-habiting partner to have been nominated by the Scheme member, as a condition of eligibility for receiving a survivor pension upon death of that member. This amendment follows the recent Supreme Court judgment in the case of *Brewster, Re Application for Judicial Review (Northern Ireland)* [2017] UKSC 8. The amendments will have retrospective effect from 1 April 2008;
  - support the development and adoption of new care models further to the 'NHS Five Year Forward View' and the 'Next Steps' update published in March 2017, by providing appropriate access to the scheme for employers and their employees working under Accountable Care Organisation contracts and sub-contracts; and
  - make technical corrections and refinements to improve the operation of scheme Regulations.

3. A detailed explanation of the amendments contained in the draft Statutory Instrument is attached separately in the Consultation document. The Regulations will come into force on 1 April 2018, subject to Parliamentary procedure.

#### **Powers under which the amendments are made and territorial effect**

4. The Secretary of State for Health proposes to make these regulations under the powers conferred by sections 10(1), (2) and (2A) and 12(1) and (2) of, and Schedule 3 to the Superannuation Act 1972 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.
5. The draft Regulations apply to England and Wales. The NHS Schemes in Scotland and Northern Ireland follow their own respective legislative processes and prepare separate Regulations should they wish to make equivalent provisions.

#### **Consultation**

6. Consultation on the amendments runs from **Wednesday 8 November 2017**, with comments on the draft Regulations invited by close of business on **Friday 29 December 2017**.
7. The draft Regulations may be subject to change in the light of comments received from the consultation exercise. Final Regulations to implement all the pension scheme changes are subject to agreement by Health Ministers and HM Treasury.
8. Unless we are specifically asked to treat a response as confidential, the Department of Health may wish to publish, in due course, responses to this consultation or lay them in the libraries of the Houses of Parliament or put them in the Department's library.
9. Responses to consultation should be sent by close of business on **Friday 29 December 2017** to:

Email: <https://consultations.dh.gov.uk/nhs-pensions/reg-changes-2018-response/> or to:

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Yours sincerely,



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