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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 364**

**NATIONAL HEALTH SERVICE**

**The National Health Service Superannuation Scheme etc.  
(Miscellaneous Amendments) (Scotland) Regulations 2011**

*Made* - - - - *19th October 2011*  
*Laid before the Scottish*  
*Parliament* - - - - *25th October 2011*  
*Coming into force* - - *1st December 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10, 12 and 24 of, and Schedule 3 to, the Superannuation Act 1972(1), and all other powers enabling them to do so.

In accordance with section 10(1) of that Act, these Regulations are made with the consent of the Treasury(2).

In accordance with section 10(4) of that Act, the Scottish Ministers have consulted with such representatives of persons likely to be affected by these Regulations as appear to them to be appropriate.

**PART 1**

**GENERAL**

**Citation, commencement and effect**

**1.—(1)** These Regulations may be cited as the National Health Service Superannuation Scheme etc. (Miscellaneous Amendments) (Scotland) Regulations 2011.

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- (1) 1972 c. 11; sections 10 and 12 were amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, Part II, the Pensions (Miscellaneous Provisions) Act 1990 (c.7), sections 4(2), 8(5), 8(6) and 10, the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 7 and S.I. 2001/3649. The functions of the Secretary of State, in or as regards Scotland, were transferred to Scottish Ministers by virtue of article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).
- (2) See the Superannuation Act 1972, section 10(1). This function was transferred to the Treasury by virtue of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), Article 2 and is still exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.

(2) These Regulations come into force on 1st December 2011 and, except as provided in paragraphs (3) to (9), have effect from that date<sup>(3)</sup>.

(3) The following provisions have effect from 1st April 2008—

- (a) regulation 25;
- (b) regulation 36;
- (c) regulation 59(f);
- (d) regulation 65; and
- (e) regulation 70.

(4) The following provisions have effect from 1st October 2008—

- (a) regulation 22; and
- (b) regulation 64.

(5) The following provisions have effect from 1st April 2010—

- (a) regulation 19(c); and
- (b) regulation 61(d).

(6) The following provisions have effect from 2nd July 2010—

- (a) regulations 14(a)(i) and (iii);
- (b) regulations 17(d) and (e);
- (c) regulations 59(d) and (e); and
- (d) regulation 104(b).

(7) The following provisions have effect from 1st April 2011—

- (a) the provisions in Part 2 except regulations 5(a), (c), (d) and (e), 6(b), 7, 10(c), 12, 13 and 14(a)(i) and (iii);
- (b) the provisions in Part 3 except regulations 17(d) and (e), 19(c), 22, 24, 25, 29, 32, 36, 37, 59(d) to (f), 61(d), 64, 65, 67, 70, 74, 77 and 81;
- (c) the provisions in Part 4 except regulation 104(b);
- (d) the provisions in Part 5 except regulation 114(c)(i); and
- (e) the provisions in Part 6.

(8) The following provisions have effect from 6th April 2011—

- (a) regulation 6(b);
- (b) regulation 7;
- (c) regulation 12;
- (d) regulation 13;
- (e) regulation 24;
- (f) regulation 29;
- (g) regulation 32;
- (h) regulation 37;
- (i) regulation 67;
- (j) regulation 74;

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(3) Section 12(1) of the Superannuation Act 1972 provides that regulations may be framed so as to have effect from a date earlier than that of their making.

- (k) regulation 77;
  - (l) regulation 81; and
  - (m) regulation 114(c)(i).
- (9) Regulations 5(c), (d) and (e) have effect from 1st October 2011.

## PART 2

### AMENDMENT OF THE NATIONAL HEALTH SERVICE SUPERANNUATION SCHEME (SCOTLAND) REGULATIONS 2011

#### **Amendments to National Health Service Superannuation Scheme (Scotland) Regulations 2011**

2. The National Health Service Superannuation Scheme (Scotland) Regulations 2011(4) are amended in accordance with this Part.

#### **Amendment of regulation B2**

3. In regulation B2 (age limits and restrictions on membership), in paragraph (1)(o)(iv), after “contributions” insert “under regulation E15”.

#### **Amendment of regulation C2**

4. In regulation C2 (meaning of “pensionable service”), in paragraph (5), for “(3)” substitute “(4)”.

#### **Amendment of regulation D2**

5. In regulation D2 (contributions and other payments by employing authorities)—
- (a) in paragraph (3), for “take” substitute “consider”;
  - (b) in paragraph (5)(a)—
    - (i) after “E6” insert “or E7”; and
    - (ii) omit “or E7” where it appears immediately before “for the period”;
  - (c) in paragraph (7), after “(5)” insert “in respect of a pension payable under regulation E6 or under paragraph (5)(c) in respect of a pension payable under regulation E7”;
  - (d) in paragraph (7)(b)(ii), after “E6” insert “or E7”; and
  - (e) after paragraph (7), insert—

“(7A) Any additional payments that are due to the Scottish Ministers under paragraph (5)(a), (b), (d) and (e) in respect of a pension payable under regulation E7 shall be made in whichever of the following ways the employing authority chooses—

    - (a) a single payment of an amount determined by the Scottish Ministers, on the advice of the scheme actuary, made within one month of the date on which the pension under regulation E7 became payable; or
    - (b) not more than 5 equal annual instalments each of an amount determined by the Scottish Ministers, on the advice of the scheme actuary, the first of which to be made within one month of the date on which the pension under regulation

E7 became payable and the others to be paid by 31st October in each of the following 4 financial years.”.

#### **Amendment of regulation E13**

6. In regulation E13 (lump sum on retirement)—
  - (a) in paragraph (2), after “pension” insert “to which the member is entitled under regulations E1 to E11 (and in relation to which any additional pension purchased under regulations Q8, Q10 or Q11 is disregarded)”;
  - (b) in paragraph (4)—
    - (i) after “member” insert “on becoming”; and
    - (ii) after “regulation” insert “on or before 5th April 2011”.

#### **Amendment of regulation F2**

7. In regulation F2 (lump sum when member dies after pension becomes payable), in paragraph (7), for “has” substitute “died on or before 5th April 2011 and had”.

#### **Amendment of regulation G13**

8. In regulation G13 (increased surviving civil partner’s pension), in paragraph (2), for “E12” substitute “E13”.

#### **Amendment of regulation G14**

9. In regulation G14 (surviving nominated partner’s pension), in paragraph (3)(c), after “partnership” insert “with a person who is not, respectively, the nominated partner or the member”.

#### **Amendment of regulation L1**

10. In regulation L1 (treatment of pensionable service of early leavers returning to pensionable employment), in paragraph (3)(b)—
  - (a) for “(early retirement pension (ill health))” substitute “(early retirement pension on ill health grounds (pre 1st April 2008))”;
  - (b) for “(ill health pension on early retirement)” substitute “(early retirement pension on ill health grounds (post 1st April 2008))”; and
  - (c) for the words “but” to the end of the paragraph substitute “but there will be no such increase to any of the member’s pensionable service if the member’s pensionable service before and after the break is treated separately”.

#### **Amendment of regulation S2**

11. In regulation S2 (reduction of pension on return to NHS employment)—
  - (a) in paragraph (2)(b)(i), before “any” insert “under”; and
  - (b) in paragraph (2)(c)(ii), after “R2(3)(b)” insert “(nurses, physiotherapists, midwives and health visitors) or regulation R3(10) (mental health officers)”.

#### **Amendment of regulation T3**

12. In regulation T3 (deduction of tax: further provisions)—
  - (a) in paragraph (8)(b), for “35%” substitute “55%”; and

(b) after paragraph (8), insert—

“(8A) Where—

- (a) a lump sum is payable by virtue of regulation F2 (lump sum when member dies after pension becomes payable); and
- (b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member’s death,

the scheme administrator shall deduct tax at the rate of 55% (or such other rate as applies under the 2004 Act) from the lump sum payable in accordance with section 206 of the 2004 Act.

(8B) Where—

- (a) the Scottish Ministers’ liability to pay a pension under regulation E1 (normal retirement pension) is discharged by the payment of a lump sum in accordance with paragraph (3) of that regulation; and
- (b) that lump sum payment is made to a member who has reached the age of 75,

the scheme administrator shall deduct tax at the rate of 55% (or such other rate as applies under the 2004 Act) from the lump sum payable in accordance with section 205A of the 2004 Act.”.

### **Amendment of regulation V13**

**13.** In regulation V13 (pension credit member dies after credit pension becomes payable), in paragraph (6), for “has” substitute “died on or before 5th April 2011 and had”.

### **Amendment of Schedule 1**

**14.** In Schedule 1 (medical and dental practitioners)—

(a) in paragraph 1 (additional definitions used in this Schedule)—

- (i) in the definition of “assistant practitioner”, in sub-paragraph (b), from “a practitioner on” to the end substitute “an assistant as defined in regulation 2(1) of the National Health Service (General Dental Services) (Scotland) Regulations 2010(5)”;
- (ii) in the definition of “Common Services Agency”, from “has the same” to the end substitute “means the Common Services Agency for the Scottish Health Service constituted under the 1978 Act”;
- (iii) in the definition of “principal practitioner”, in sub-paragraph (b), from “a list” to the end substitute “the first part of a dental list prepared by a Health Board in accordance with regulation 4 of the National Health Service (General Dental Services) (Scotland) Regulations 2010”; and
- (iv) in the definition of “Doctors’ Retainer Scheme”, from “given” to the end substitute “it has in directions comprising the GMS Statement of Financial Entitlements given by the Scottish Ministers under section 17M of the 1978 Act (payments by Health Boards under general medical services contracts)”;

(b) in paragraph 14 (contributions to this Section of the scheme), in sub-paragraph (10)—

- (i) for “, which” substitute “on the basis of whichever of the following the host Health Board or someone appointed on its behalf considers the most appropriate in the circumstances”;

- (ii) in head (a), before “has” insert “the amount of the practitioner’s or non-GP provider’s earnings that”;
- (iii) in head (b), before “corresponds” insert “the amount of the practitioner’s or non-GP provider’s earnings that”; and
- (iv) in head (c), before “corresponds” insert “the amount of such earnings that”.

### PART 3

#### AMENDMENT OF THE NATIONAL HEALTH SERVICE PENSION SCHEME (SCOTLAND) REGULATIONS 2008

##### **Amendments to the National Health Service Pension Scheme (Scotland) Regulations 2008**

**15.** The National Health Service Pension Scheme (Scotland) Regulations 2008<sup>(6)</sup> are amended in accordance with this Part.

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

- 16.** In regulation 1.B.1 (actuarial reports and accounts)—
- (a) in paragraph (1)(b), for “1995” substitute “2011”; and
  - (b) in paragraph (4)(a), for “1995” substitute “2011”.

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

- 17.** In regulation 2.A.1 (interpretation: general), in paragraph (1)—
- (a) omit the definition of “the 1995 Regulations”;
  - (b) for the definition of “the 1995 Section” substitute—
    - ““the 1995 Section” means the Section of the scheme, the rules of which are set out in the National Health Superannuation Scheme (Scotland) Regulations 2011;”;
  - (c) after the definition of “2008 Section Optant” insert—
    - ““the 2011 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”;
  - (d) omit the definition of “dental list”;
  - (e) for the definition of “dentist” substitute—
    - ““dentist” means a dental practitioner registered in the register of dentists;”;
  - (f) for the definition of “the scheme” substitute—
    - ““the scheme”, except where the context otherwise requires, means the National Health Service Superannuation Scheme for Scotland, the rules of which are set out in these Regulations and the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”.

##### **Amendment of regulation 2.A.2**

**18.** In regulation 2.A.2 (meaning of “pensionable service”), in paragraph (8), for “1995 Regulations” substitute “2011 Regulations”.

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(6) S.S.I. 2008/224, amended by S.S.I. 2009/19 and 208, 2010/22, 53 and 369 and S.I. 2010/234.

### **Amendment of regulation 2.A.5**

- 19.** In regulation 2.A.5 (meaning of “qualifying service”), in paragraph (1)—
- (a) in sub-paragraph (d), after “regulation 2.A.6;” omit “and”;
  - (b) in sub-paragraph (f), in the full out—
    - (i) for “1995 Regulations” in both places where it occurs substitute “2011 Regulations”; and
    - (ii) after “member left that Section;” omit “and”; and
  - (c) after sub-paragraph (g), insert—
    - “(h) in the case of a Waiting Period Joiner (as referred to in regulation 2.L.1(2)), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section; and
    - (i) in the case of a person who is eligible to join this Section of the scheme by virtue of regulation 2.B.1(5)(e), (g) or (h) (eligibility: general), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section.”.

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

- 20.** In regulation 2.B.1 (eligibility: general), in paragraph (5)—
- (a) in sub-paragraph (d)(i), for “1995 regulations” substitute “2011 Regulations”;
  - (b) in sub-paragraph (d)(ii), for “1995 regulations” substitute “2011 Regulations”;
  - (c) in sub-paragraph (f)(iv)(aa), for “1995” substitute “2011”;
  - (d) in sub-paragraph (g), for “1995 Regulations” substitute “2011 Regulations”;
  - (e) in sub-paragraph (h), for “1995 Regulations” substitute “2011 Regulations”;
  - (f) in sub-paragraph (i)(i), for “1995” substitute “2011”;
  - (g) in sub-paragraph (i)(iii), for “1995” substitute “2011”;
  - (h) in sub-paragraph (j)(i), for “1995” substitute “2011”; and
  - (i) in the full out—
    - (i) for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”; and
    - (ii) for “1995 Regulations” substitute “2011 Regulations”.

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

- 21.** In regulation 2.B.1A (eligibility: transitional)—
- (a) in paragraph (3)—
    - (i) for “1995” substitute “2011”;
    - (ii) in sub-paragraph (b), for “E2A(3)(a)” substitute “E3(3)(a)”;
    - (iii) in sub-paragraph (c), for “E3A” substitute “E7”; and
    - (iv) in sub-paragraph (d), for “E5” substitute “E11”;
  - (b) in paragraph (4)—
    - (i) for “1995” substitute “2011”;
    - (ii) in sub-paragraph (a), for “(ill health)” substitute “on ill health grounds (pre 1st April 2008)”; and
    - (iii) in sub-paragraph (b), for “E3” substitute “E6”;

- (c) in paragraph (5), for “E2A(3)(b)” substitute “E3(3)(b)”;
- (d) in paragraph (6)—
  - (i) for “E2A(3)(a) of the 1995” substitute “E3(3)(a) of the 2011”;
  - (ii) for “E2B(3)” substitute “E4(3)”; and
  - (iii) for “E2A” substitute “E3”;
- (e) in paragraph (7)—
  - (i) in sub-paragraph (a), for “1995” substitute “2011”;
  - (ii) in sub-paragraph (b), for “1995” where it first occurs substitute “2011”; and
  - (iii) in sub-paragraph (b)(i), for “1995 Regulations” substitute “2011 Regulations”; and
- (f) in paragraph (8)—
  - (i) in sub-paragraph (b), for “1995 Regulations” substitute “2011 Regulations”; and
  - (ii) in sub-paragraph (c)—
    - (aa) for ““E2A”, “E2B(3)”, “E3”, “E3A”, “E3A(3)(a)”, “E3A(3)(b)”, or “E5”” substitute ““E3”, “E4(3)”, “E6”, “E7”, “E7(3)(a)”, “E7(3)(b)” or “E11””; and
    - (bb) for “1995” substitute “2011”.

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

- 22.** In regulation 2.C.1 (contributions by members), in paragraph (8), for “(3)” substitute “(3A)”.

#### **Amendment of regulation 2.D.8**

- 23.** In regulation 2.D.8 (early retirement on ill health (active members and non contributing members)), in paragraph (17), in the definition of “permanently”—
- (a) in sub-paragraph (b)(i), for “E2A(2)(b)(i) of the 1995” substitute “E3(2)(b)(i) of the 2011”;
  - and
  - (b) in sub-paragraph (b)(ii), for “E2A(2)(b)(ii) of the 1995” substitute “E3(2)(b)(ii) of the 2011”.

#### **Amendment of regulation 2.D.15**

- 24.** In regulation 2.D.15 (option for members in serious ill health to exchange whole pension for lump sum)—
- (a) in paragraph (4), omit “and before reaching the age of 75”; and
  - (b) in paragraph (5), omit “and before reaching the age of 75”.

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

- 25.** In regulation 2.E.9 (meaning of “dependent child”), in paragraph (1)(c)(i), for “whilst the deceased was” substitute “before the deceased ceased to be”.

#### **Amendment of regulation 2.E.10**

- 26.** In regulation 2.E.10 (amount of children’s pension under regulation 2.E.8: deceased active members and deceased non contributing members), in paragraph (4), for “E2A of the 1995” substitute “E3 of the 2011”.



#### **Amendment of regulation 2.E.11**

27. In regulation 2.E.11 (amount of children’s pension under regulation 2.E.8: deceased pensioner members), in paragraph (3), for “E2A of the 1995” substitute “E3 of the 2011”.

#### **Amendment of regulation 2.E.12**

28. In regulation 2.E.12 (amount of children’s pension under regulation 2.E.8: deceased deferred members), in paragraph (3), for “E2A of the 1995” substitute “E3 of the 2011”.

#### **Amendment of regulation 2.E.16**

29. In regulation 2.E.16 (lump sum benefits on death: introduction), for paragraph (1) substitute—

“(1) A lump sum is payable in accordance with this Chapter if—

- (a) a member, a recent leaver or a deferred member dies before reaching the age of 75; or
- (b) a pensioner member, on or after reaching the age of 75, dies except in the circumstances described in regulation 2.E.20A.”.

#### **Amendment of regulation 2.E.17**

30. In regulation 2.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 2.D.5 employments)), in paragraph (1), for “E2A of the 1995” substitute “E3 of the 2011”.

#### **Amendment of regulation 2.E.19**

31. In regulation 2.E.19 (amount of lump sum: dual capacity members: members with pensions under regulation 2.D.5), in paragraph (2), for “E2A of the 1995” substitute “E3 of the 2011”.

#### **Amendment of regulation 2.E.20A**

32. In regulation 2.E.20A (pension payable when member dies on or after reaching age 75), in paragraph (1)—

- (a) after “If” insert “, on or before 5th April 2011,”; and
- (b) for “dies” substitute “has died”.

#### **Amendment of regulation 2.E.21**

33. In regulation 2.E.21 (payment of lump sum or pensions on death), in paragraph (13), for “1995” substitute “2011”.

#### **Amendment of regulation 2.F.6**

34. In regulation 2.F.6 (calculating amounts of transfer value payments), in paragraph (4)(b)(iii) (bb), for “1995” substitute “2011”.

#### **Amendment of regulation 2.F.17**

35. In regulation 2.F.17 (transfers across from the 1995 Section)—

- (a) in paragraph (1)—

- (i) for “(waiver of transfer)” substitute “(member’s right to transfer a preserved pension to the 2008 Section)”; and
- (ii) for “1995 Regulations” substitute “2011 Regulations”; and
- (b) in paragraph (2)(b), for “1995” substitute “2011”.

#### **Amendment of regulation 2.H.6**

**36.** In regulation 2.H.6 (meaning of “previous pay”: members with concurrent employments), in paragraph (2), for “2.H.(4)” substitute “2.H.5(4)”.

#### **Amendment of regulation 2.J.8**

**37.** In regulation 2.J.8 (deduction of tax)—

- (a) in paragraph (4), for “when” substitute “before”; and
- (b) after paragraph (4) insert—
  - “(5) Paragraph (6) applies if—
    - (a) a lump sum is payable on the death of a pensioner member in accordance with paragraph (2) of regulation 2.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 2.D.5 employments)); and
    - (b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member’s death.
  - (6) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 206 of the 2004 Act (special lump sum benefits charge) from the lump sum.
  - (7) Paragraph (8) applies if—
    - (a) an active member, a non-contributing member or a pension credit member exercises the option in paragraph (1) of regulation 2.D.15 (option for members in serious ill health to exchange whole pension for lump sum) to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of that regulation; and
    - (b) that lump sum payment is to be made to a member who has reached the age of 75.
  - (8) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 205A of the 2004 Act (serious ill-health lump sum charge) from the lump sum.”.

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

**38.** In regulation 2.K.1 (application of Chapter 2.K)—

- (a) in paragraph (1)(a), for “1995” substitute “2011”;
- (b) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”; and
- (c) in paragraph (1)(c)(i), for “E3 or E3A of the 1995” substitute “E6 or E7 of the 2011”.

#### **Amendment of regulation 2.K.2**

**39.** In regulation 2.K.2 (options for 1995 Section members to join the 2008 Section under Chapter 2.K)—

- (a) in paragraph (9)(b), for “1995” substitute “2011”;

- (b) in paragraph (9A)(a), for “(3) or paragraph (4) of regulation D1 of the 1995” substitute “(26) or paragraph (27) of regulation D1 of the 2011”; and
- (c) in paragraph (12)—
  - (i) for “E2A” and substitute “E3”; and
  - (ii) for “1995” in both places where it occurs substitute “2011”.

#### **Amendment of regulation 2.K.3**

- 40.** In regulation 2.K.3 (service credited from the 1995 Section)—
- (a) in paragraph (1)(b), for “E2A (ill health pension on early retirement) of the 1995” substitute “E3 (early retirement pension on ill health grounds (post 1st April 2008) of the 2011”;
  - (b) in paragraph (3), for “1995” substitute “2011”;
  - (c) in paragraph (4), for “1995” substitute “2011”;
  - (d) in paragraph (6), for “1995” where it first occurs substitute “2011”;
  - (e) in paragraph (6)(a), for “1995” substitute “2011”; and
  - (f) in paragraph (6)(c), for “1995 Regulations” substitute “2011 Regulations”.

#### **Amendment of regulation 2.K.4**

- 41.** In regulation 2.K.4 (treatment of additional pension)—
- (a) in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”;
  - (b) in paragraph (2)(a), for “1995” substitute “2011”;
  - (c) in paragraph (3)(a), for “1995 Regulations” substitute “2011 Regulations”;
  - (d) in paragraph (3)(b), for “1995 Regulations” substitute “2011 Regulations”;
  - (e) in paragraph (4)(a), for “1995” substitute “2011”;
  - (f) in paragraph (4)(b), for “1995 Regulations” substitute “2011 Regulations”; and
  - (g) in paragraph (6)(b), for “1995” in the four places where it occurs substitute “2011”.

#### **Amendment of regulation 2.K.5**

- 42.** In regulation 2.K.5 (treatment of additional service)—
- (a) in paragraph (1)(b), for “1995” substitute “2011”;
  - (b) in paragraph (2)(a), for “1995” substitute “2011”;
  - (c) in paragraph (3)(a), for “(4), and as the case may be paragraph (8), of regulation Q1 of the 1995” substitute “(6), and as the case may be paragraph (15), of regulation Q1 of the 2011”;
  - (d) in paragraph (3)(b), for “(4) and (5) (but not (6)) of regulation Q7 of the 1995” substitute “(5) and (6) (but not (7)) of regulation Q7 of the 2011”; and
  - (e) in paragraph (3)(c), for “(4) and (5) (but not (6)) of regulation Q7 of the 1995” substitute “(5) and (6) (but not (7)) of regulation Q7 of the 2011”.

#### **Amendment of regulation 2.K.6**

- 43.** In regulation 2.K.6 (treatment of unreduced retirement lump sum), in paragraph (1), for “1995” substitute “2011”.

**Amendment of regulation 2.K.7**

44. In regulation 2.K.7 (treatment of 2008 Section Optants to whom regulation L1(3) of the 1995 Section applied immediately before 1st April 2008)—

- (a) in paragraph (1)(b), for “1995” substitute “2011”; and
- (b) in paragraph (3)(b), for “1995” substitute “2011”.

**Amendment of regulation 2.K.9**

45. In regulation 2.K.9 (treatment of 2008 Section Optants to whom regulation R8 of the 1995 Regulations applied immediately before 1st April 2008)—

- (a) in the cross heading, for “1995” substitute “2011”;
- (b) in paragraph (1)(c), for “E6” substitute “E12”; and
- (c) in paragraph (3)(b), for “1995” substitute “2011”.

**Amendment of regulation 2.K.12**

46. In regulation 2.K.12 (amount of pension and lump sum to be paid to a 2008 Section Optant), in paragraph (16)—

- (a) in the definition of “1995 Section Pension Debit”, for “1995 Regulations” substitute “2011 Regulations”;
- (b) in the definition of “Increase Factor” for “1995 Regulations” substitute “2011 Regulations”; and
- (c) in the definition of “Reduction Factor”—
  - (i) for “E8(7)(b) of the 1995” substitute “E14(7)(b) of the 2011”; and
  - (ii) for “E5” substitute “E11”.

**Amendment of regulation 2.K.13**

47. In regulation 2.K.13 (transfers in: provisional provisions)—

- (a) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”; and
- (b) in paragraph (2)(a), for “1995” substitute “2011”.

**Amendment of regulation 2.K.14**

48. In regulation 2.K.14 (2008 Section Optants: transitional upper tier ill health pension), in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

**Amendment of regulation 2.K.16**

49. In regulation 2.K.16 (application of regulation 2.D.9 where a 2008 Section Optant has submitted an application for ill health retirement under the 1995 Section)—

- (a) in paragraph (1)(a) for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (2)(b) for “E2B (re-assessment of ill health condition determined under regulation E2A) of the 1995” substitute “E4 (re-assessment of ill health condition determined under regulation E3) of the 2011”.

### **Amendment of regulation 2.K.18**

**50.** In regulation 2.K.18 (transitional provision: treatment of additional service in respect of Optants retiring on the grounds of ill health)—

- (a) in paragraph (2)(a), for “E2A (ill health pension on early retirement) of the 1995” substitute “E3 (early retirement pension on ill health grounds (post 1st April 2008)) of the 2011”;
- (b) in paragraph (2)(b), for “1995” substitute “2011”;
- (c) in paragraph (3)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (3)(b), for “1995” substitute “2011”; and
- (e) in paragraph (4)(b)—
  - (i) for “1995” in both places where it occurs substitute “2011”;
  - (ii) after “Q7(3)” insert “and (4)”; and
  - (iii) for “E2A” substitute “E3”.

### **Amendment of regulation 2.K.19**

**51.** In regulation 2.K.19 (circumstances in which a 1995 Section member may defer making an option to join this Section of the scheme under regulation 2.K.2)—

- (a) in paragraph (1)(a)(ii), for “1995” substitute “2011”;
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (3)(b)(i), for “E2A of the 1995” substitute “E3 of the 2011”; and
- (d) in paragraph (4)(b), for “E5 (early retirement pension (with actuarial reduction) or E6 (preserved pension) of the 1995” substitute “E11 (early retirement pension (with actuarial reduction)) or E12 (preserved pension) of the 2011”.

### **Amendment of regulation 2.K.20**

**52.** In regulation 2.K.20 (nominations and notices accepted by the Scottish Ministers under the 1995 regulations to apply under Chapter 2.E of these Regulations)—

- (a) in the cross heading, for “1995 regulations” substitute “2011 Regulations”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and
- (d) in paragraph (2)(c), for “1995” substitute “2011”.

### **Amendment of regulation 2.K.22**

**53.** In regulation 2.K.22 (2008 Section Optants who are in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995 Regulations (ill health pension on early retirement)” substitute “E3 of the 2011 Regulations (early retirement on ill health grounds (post 1st April 2008))”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (5)(b), for “E2B of the 1995” substitute “E4 of the 2011”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

### **Amendment of regulation 2.K.23**

**54.** In regulation 2.K.23 (lump sum payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

### **Amendment of regulation 2.K.24**

**55.** In regulation 2.K.24 (children’s pensions payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”.

### **Amendment of regulation 2.L.2**

**56.** In regulation 2.L.2 (nominations and notices accepted by the Scottish Ministers under the 1995 Regulations and Chapter 2.E of these Regulations)—

- (a) in the cross heading, for “1995 ” substitute “2011”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and
- (d) in paragraph (2)(c), for “1995” substitute “2011”.

### **Amendment of regulation 2.L.3**

**57.** In regulation 2.L.3 (Waiting Period Joiners who are in receipt of a lower tier ill-health pension under Regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (5)(b), for “E2B of the 1995 Regulations (re-assessment of ill health condition determined under regulation E2A)” substitute “E4 of the 2011 Regulations (re-assessment of ill health condition determined under regulation E3)”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

### **Amendment of regulation 2.L.5**

**58.** In regulation 2.L.5 (children’s pensions payable on the death of a Waiting Period Joiner), in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”.

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

**59.** In regulation 3.A.1 (interpretation of Part 3: general), in paragraph (1)—

- (a) omit the definition of “the 1995 Regulations”;
- (b) for the definition of “the 1995 Section” substitute—
  - ““the 1995 Section” means the Section of the scheme, the rules of which are set out in the National Health Superannuation Scheme (Scotland) Regulations 2011;”;
- (c) after the definition of “the 2004 Regulations” insert—

- “the 2011 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”;
- (d) omit the definition of “dental list”;
  - (e) for the definition of “dentist” substitute—

““dentist” means a dental practitioner registered in the register of dentists;”
  - (f) in the definition of “doctors’ retainer scheme”, from “given” to the end substitute “it has in directions comprising the GMS Statement of Financial Entitlements given by the Scottish Ministers under section 17M of the 1978 Act (payments by Health Boards under general medical services contracts)”; and
  - (g) for the definition of “the scheme” substitute—

““the scheme”, except where the context otherwise requires, means the National Health Service Superannuation Scheme for Scotland, the rules of which are set out in these Regulations and the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”.

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

**60.** In regulation 3.A.3 (meaning of “pensionable service”), in paragraph (9), in the definition of “LPS”, for “1995 Regulations” substitute “2011 Regulations”.

### **Amendment of regulation 3.A.5**

- 61.** In regulation 3.A.5 (meaning of “qualifying service”), in paragraph (1)—
- (a) in sub-paragraph (b), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
  - (b) in sub-paragraph (e)(ii), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
  - (c) in sub-paragraph (e)—
    - (i) in the full out, for “1995 Regulations” in both places where it occurs substitute “2011 Regulations”; and
    - (ii) at the end omit “and”; and
  - (d) after sub-paragraph (f) insert—
    - “(g) in the case of a Waiting Period Joiner (as defined in regulation 3.L.1(2)), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section; and
    - (h) in the case of a person who is eligible to join this Section of the Scheme by virtue of regulation 3.B.1(5)(e), (g) or (h) (eligibility: general), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section.”.

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

- 62.** In regulation 3.B.1 (eligibility: general)—
- (a) in paragraph (5)(d)(ii)—
    - (i) omit “this Section of”; and
    - (ii) for “the scheme” substitute “this Section of the scheme”;
  - (b) in paragraph (5)(e)(iv), in the full out—

- (i) for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”; and
- (ii) for “1995 Regulations” substitute “2011 Regulations”;
- (c) in paragraph (5)(f), for “1995 Regulations” substitute “2011 Regulations”;
- (d) in paragraph (5)(g), for “1995 Regulations” substitute “2011 Regulations”;
- (e) in paragraph (5)(h), for “1995 Regulations” substitute “2011 Regulations”; and
- (f) in paragraph (5)(i), for “1995 Regulations” substitute “2011 Regulations”.

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

- 63.** In regulation 3.B.1A (eligibility: transitional)—
- (a) in paragraph (3), for “1995” substitute “2011”;
  - (b) in paragraph 3(b), for “E2A(3)(a)” substitute “E3(3)(a)”;
  - (c) in paragraph 3(c), for “E3A” substitute “E7”;
  - (d) in paragraph 3(d), for “E5 (early retirement pension with actuarial reduction)” substitute “E11 (early retirement pension (with actuarial reduction))”;
  - (e) in paragraph (4), for “1995” substitute “2011”;
  - (f) in paragraph (4)(a), for “(ill health)” substitute “ill health grounds (pre 1st April 2008)”;
  - (g) in paragraph (4)(b), for “E3” substitute “E6”;
  - (h) in paragraph (5), for “E2A(3)(b)” substitute “E3(3)(b)”;
  - (i) in paragraph (6)—
    - (i) for “E2A(3)(a) of the 1995” substitute “E3(3)(a) of the 2011”;
    - (ii) for “E2B(3)” substitute “E4(3)”; and
    - (iii) for “E2A” substitute “E3”;
  - (j) in paragraph (7)(a), for “1995” substitute “2011”;
  - (k) in paragraph (7)(b), for “1995” in the first place where it occurs substitute “2011”;
  - (l) in paragraph (7)(b)(i), for “1995 Regulations” substitute “2011 Regulations”;
  - (m) in paragraphs (8)(b), for “1995 Regulations” substitute “2011 Regulations”; and
  - (n) in paragraph (8)(c)—
    - (i) for ““E2A”, “E2B(3)”, “E3”, “E3A”, “E3A(3)(a)”, “E3A(3)(b)” or “E5”” substitute ““E3”, “E4(3)”, “E6”, “E7”, “E7(3)(a)”, “E7(3)(b)” or “E11””; and
    - (ii) for “1995” substitute “2011”.

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

- 64.** In regulation 3.C.1 (contributions by members), in paragraph (3), for “(3)” substitute “(3A)”.

### **Amendment of regulation 3.C.2**

- 65.** In regulation 3.C.2 (members’ contribution rate), in paragraph (6)—
- (a) for “which” substitute “on the basis of whichever of the following the host Health Board or someone appointed to act on their behalf considers the most appropriate in the circumstances”;
  - (b) in sub-paragraph (a), before “have” insert “the amount of the practitioner’s earnings that”;



- (c) in sub-paragraph (b), before “corresponds” insert “the amount of the practitioner’s earnings that”; and
- (d) in sub-paragraph (c), before “corresponds” insert “the amount of the practitioner’s earnings that”.

#### **Amendment of regulation 3.D.7**

**66.** In regulation 3.D.7 (early retirement on ill health (active member and non contributing members)—

- (a) in paragraph (17), in the definition of “permanently”—
  - (i) in sub-paragraph (b)(i), for “E2A(2)(b)(i) of the 1995” substitute “E3(2)(b)(i) of the 2011”; and
  - (ii) in sub-paragraph (b)(ii), for “E2A(2)(b)(ii) of the 1995” substitute “E3(2)(b)(ii) of the 2011”; and
- (b) in paragraph (19), for “Regulation E2A of the 1995” substitute “regulation E3 of the 2011”.

#### **Amendment of regulation 3.D.11**

**67.** In regulation 3.D.11 (option for members in serious ill-health to exchange whole pension for lump sum)—

- (a) in paragraph (4), omit “and before reaching the age of 75”; and
- (b) in paragraph (5), omit “and before reaching the age of 75”.

#### **Amendment of regulation 3.D.18**

**68.** In regulation 3.D.18 (guaranteed minimum pensions etc.), in paragraph (7), after “reference to” insert “this Section of”.

#### **Amendment of regulation 3.E.2**

**69.** In regulation 3.E.2 (meaning of “surviving nominated partner”), in paragraph (4), for “1995” substitute “2011”.

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

**70.** In regulation 3.E.9 (meaning of “dependent child”), in paragraph (1)(c)(i), for “whilst the deceased was” substitute “before the deceased ceased to be”.

#### **Amendment of regulation 3.E.10**

**71.** In regulation 3.E.10 (amount of children’s pension under regulation 3.E.8: deceased active members and deceased non contributing members), in paragraph (3), in the full out, for “E2A of the 1995 Section” substitute “E3 of the 2011 Regulations”.

#### **Amendment of regulation 3.E.11**

**72.** In regulation 3.E.11 (amount of children’s pension under regulation 3.E.8: deceased pension members), paragraph (3), in the full out, for “E2A of the 1995” substitute “E3 of the 2011”.

**Amendment of regulation 3.E.12**

73. In regulation 3.E.12 (amount of children’s pension under regulation 3.E.8: deceased deferred members), in paragraph (3A), for “E2A of the 1995” substitute “E3 of the 2011”.

**Amendment of regulation 3.E.16**

74. In regulation 3.E.16 (lump sum benefits on death: introduction), for paragraph (1) substitute—

- “(1) A lump sum is payable in accordance with this Chapter if—
- (a) a member, a recent leaver or a deferred member dies before reaching the age of 75; or
  - (b) a pensioner member, on or after reaching the age of 75, dies except in the circumstances described in regulation 2.E.20A.”.

**Amendment of regulation 3.E.17**

75. In regulation 3.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 3.D.5 employments)), paragraph (1A), for “E2A of the 1995 Section” substitute “E3 of the 2011 Regulations”.

**Amendment of regulation 3.E.19**

76. In regulation 3.E.19 (amount of lump sum: dual capacity members: members with pensions under regulation 3.D.5), in paragraph (2A), for “E2A of the 1995” substitute “E3 of the 2011”.

**Amendment of regulation 3.E.20A**

77. In regulation 3.E.20A (pension payable when member dies on or after reaching age 75), in paragraph (1), after “If” insert “, on or before 5th April 2011,”.

**Amendment of regulation 3.E.21**

78. In regulation 3.E.21 (payment of lump sums or pensions on death), in paragraph (13), for “1995” substitute “2011”.

**Amendment of regulation 3.F.6**

79. In regulation 3.F.6 (calculating amounts of transfer payments)—

- (a) in paragraph (4)(b)(ii)—
  - (i) for “10” substitute “14”; and
  - (ii) for “1995” substitute “2011”; and
- (b) in paragraph (4)(b)(iii)—
  - (i) for “19” substitute “26”; and
  - (ii) for “1995” substitute “2011”.

**Amendment of regulation 3.F.17**

80. In regulation 3.F.17 (transfers across from the NHS superannuation scheme for Scotland 1995)—

- (a) in the cross heading, for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
- (b) in paragraph (1)—
  - (i) for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
  - (ii) for “M7” substitute “M8”; and
  - (iii) for “1995 Regulations” substitute “2011 Regulations”;
- (c) in paragraph (2)(b), for “M7 of the 1995” substitute “M8 of the 2011”;
- (d) in paragraph (4)(a), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”; and
- (e) in paragraph (5), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”.

### **Amendment of regulation 3.J.8**

**81.** In regulation 3.J.8 (deduction of tax)—

- (a) in paragraph (4), for “when” substitute “before”; and
- (b) after paragraph (4) insert—
  - “(5) Paragraph (6) applies if—
    - (a) a lump sum is payable on the death of a pensioner member in accordance with paragraph (2) of regulation 3.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 3.D.5 employments)); and
    - (b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member’s death.
  - (6) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 206 of the 2004 Act (special lump sum benefits charge) from the lump sum.
  - (7) Paragraph (8) applies if—
    - (a) an active member, a non-contributing member or a pension credit member exercises the option in paragraph (1) of regulation 3.D.11 (option for members in serious ill health to exchange whole pension for lump sum) to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of that regulation; and
    - (b) that lump sum payment is to be made to a member who has reached the age of 75.
  - (8) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 205A of the 2004 Act (serious ill-health lump sum charge) from the lump sum.”.

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

**82.** In regulation 3.K.1 (application of Chapter 3.K)—

- (a) in paragraph (1)(a)—
  - (i) for “1995” substitute “2011”; and
  - (ii) for “10” substitute “14”;
- (b) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”;
- (c) in paragraph (1)(c), for “E3 or E3A of the 1995” substitute “E6 or E7 of the 2011”; and

- (d) in paragraph (2)(a)—
  - (i) for “E2(11) of the 1995” substitute “E2(12) of the 2011”; and
  - (ii) for “(ill health)” substitute “on ill health grounds (pre 1st April 2008)”.

#### **Amendment of regulation 3.K.2**

**83.** In regulations 3.K.2 (options for 1995 Section members to join this Section of the scheme under Chapter 3.K)—

- (a) in paragraph (9)(b)—
  - (i) for “11 and 12” substitute “15 and 16”; and
  - (ii) for “1995 Regulations” substitute “2011 Regulations”;
- (b) in paragraph (9A)(a), for “1995” substitute “2011”; and
- (c) in paragraph (12)—
  - (i) for “E2A (ill health pension on early retirement)” substitute “E3 (early retirement pension on ill health grounds (post 1st April 2008))”; and
  - (ii) for “1995” in both places where it occurs substitute “2011”.

#### **Amendment of regulation 3.K.3**

**84.** In regulation 3.K.3 (service and pensionable earnings credited from the 1995 Section)—

- (a) in paragraph (1)(b), for “E2A of the 1995 Regulations (ill health pension on early retirement)” substitute “E3 of the 2011 Regulations (early retirement pension on ill health grounds (post 1st April 2008))”;
- (b) in paragraph (3), for “1995” substitute “2011”;
- (c) in paragraph (4), for “1995” substitute “2011”;
- (d) in paragraph (5)(b)—
  - (i) for “23” substitute “31”; and
  - (ii) for “1995” substitute “2011”;
- (e) in paragraph (6)(a), for “1995” substitute “2011”; and
- (f) in paragraph (9), for “1995” substitute “2011”.

#### **Amendment of regulation 3.K.4**

**85.** In regulation 3.K.4 (treatment of additional pension)—

- (a) in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”;
- (b) in paragraph (2)(a), for “1995” substitute “2011”;
- (c) in paragraph (3)(a), for “1995 Regulations” substitute “2011 Regulations”;
- (d) in paragraph (3)(b), for “1995 Regulations” substitute “2011 Regulations”;
- (e) in paragraph (4)(a), for “1995 Regulations” substitute “2011 Regulations”;
- (f) in paragraph (4)(b), for “1995 Regulations” substitute “2011 Regulations”;
- (g) in paragraph (6)(b) for “1995” in the four places where it occurs substitute “2011”;
- (h) in paragraph (7), for “1995” substitute “2011”; and
- (i) in paragraph (8), for “1995 Regulations” substitute “2011 Regulations”.

### **Amendment of regulation 3.K.5**

**86.** In regulation 3.K.5 (treatment of additional service and pensionable earnings)—

- (a) in paragraph (1)(b), for “1995” substitute “2011”;
- (b) in paragraph (2)(a)—
  - (i) for “1995” in both places where it occurs substitute “2011”; and
  - (ii) for “19(2)” substitute “26(2)”;
- (c) in paragraph (3)(a)—
  - (i) for “Q1(4)” substitute “Q1(6)”;
  - (ii) for “19(2)” substitute “26(2)”;
  - (iii) for “19(4)” substitute “26(4)”;
  - (iv) for “1995” substitute “2011”;
- (d) in paragraph (3)(b)—
  - (i) for “19(2)” substitute “26(2)”;
  - (ii) for “19(4)” substitute “26(4)”;
  - (iii) for “1995” substitute “2011”; and
  - (iv) for “(4) and (5)” substitute “(6) and (7)”;
- (e) in paragraph (3)(c)—
  - (i) for “20(2)” substitute “27(2)”;
  - (ii) for “19(4)” substitute “26(4)”.

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

**87.** In regulation 3.K.6 (treatment of unreduced retirement lump sum), in paragraph (1), for “1995” substitute “2011”.

### **Amendment of regulation 3.K.7**

**88.** In regulation 3.K.7 (treatment of 2008 Section Optants to whom regulation L1(3) of the 1995 Regulations applied immediately before 1st April 2008)—

- (a) in the cross heading, for “1995 regulations” substitute “2011 Regulations”;
- (b) in paragraph (1)(b), for “1995” substitute “2011”; and
- (c) in paragraph (3)(b)—
  - (i) for “9” substitute “11”; and
  - (ii) for “1995” substitute “2011”.

### **Amendment of regulation 3.K.10**

**89.** In regulation 3.K.10 (transfers in: transitional period)—

- (a) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”; and
- (b) in paragraph (2)(a), for “N1(4) of the 1995 ” substitute “N1(5) of the 2011”.

### **Amendment of regulation 3.K.11**

**90.** In regulation 3.K.11 (amount of pension and lump sum to be paid to a 2008 Section Optant), in paragraph (17)—

- (a) in the definition of “1995 Section Pension Debit”, for “1995 Regulations” substitute “2011 Regulations”;
- (b) in the definition of “Increase Factor”, for “1995 Regulations” substitute “2011 Regulations”; and
- (c) in the definition of “Reduction Factor”—
  - (i) for “E8(7)(b) of the 1995” substitute “E14(7)(b) of the 2011”; and
  - (ii) for “E5” substitute “E11”.

#### **Amendment of regulation 3.K.12**

**91.** In regulation 3.K.12 (nominations and notices accepted by the Scottish Ministers under the 1995 Regulations to apply under Chapter 3.E of these Regulations)—

- (a) in the cross heading, for “1995” substitute “2011”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and
- (d) in paragraph (2)(c), for “1995” substitute “2011”.

#### **Amendment of regulation 3.K.13**

**92.** In regulation 3.K.13 (2008 Section Optants: transitional upper tier ill health pension), in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

#### **Amendment of regulation 3.K.15**

**93.** In regulation 3.K.15 (application of regulation 3.D.8 where a 2008 Section Optant has submitted an application for ill health retirement under the 1995 Section)—

- (a) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (2)(b)—
  - (i) for “E2B” substitute “E4”;
  - (ii) for “E2A” substitute “E3”; and
  - (iii) for “1995” substitute “2011”.

#### **Amendment of regulation 3.K.18**

**94.** In regulation 3.K.18 (transitional provision: treatment of additional service and pensionable earnings in respect of Optants retiring on the grounds of ill health)—

- (a) in paragraph (2)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (2)(b)—
  - (i) for “1995” in both places where it occurs substitute “2011”; and
  - (ii) for “(19)” substitute “26”;
- (c) in paragraph (2)(c)(i), for “1995” substitute “2011”;
- (d) in paragraph (3)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (e) in paragraph (3)(b), for “1995” substitute “2011”; and
- (f) in paragraph (4)(b)—
  - (i) for “1995” in the four places where it occurs substitute “2011 Regulations”;
  - (ii) for “19” in both places where it occurs substitute “26”;

- (iii) after “Q7(3)” insert “or (4)”; and
- (iv) for “E2A” substitute “E3”.

#### **Amendment of regulation 3.K.20**

**95.** In regulation 3.K.20 (circumstances in which a 1995 Section member may defer making an option to join this Section of the scheme under regulation 3.K.2)—

- (a) in paragraph (1)(a)(ii), for “1995” substitute “2011”;
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (3)(b)(i), for “E2A of the 1995” substitute “E3 of the 2011”; and
- (d) in paragraph (4)(b)—
  - (i) for “E5” substitute “E11”;
  - (ii) for “E6” substitute “E12”; and
  - (iii) for “1995” substitute “2011”.

#### **Amendment of regulation 3.K.21**

**96.** In regulation 3.K.21 (2008 Section Optants who are in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (5)(b), for “E2B of the 1995” substitute “E4 of the 2011”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

#### **Amendment of regulation 3.K.22**

**97.** In regulation 3.K.22 (lump sum payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Section)—

- (a) in the cross heading, for “E2A of the 1995 Section” substitute “E3 of the 2011 Regulations”; and
- (b) paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

#### **Amendment of regulation 3.K.23**

**98.** In regulation 3.K.23 (children’s pensions payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”.

#### **Amendment of regulation 3.L.2**

**99.** In regulation 3.L.2 (nominations and notices accepted by the Scottish Ministers under the 1995 Regulations and Chapter 2.E of these Regulations)—

- (a) in the cross heading, for “1995” substitute “2011”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and

(d) in paragraph (2)(c), for “1995” substitute “2011”.

### **Amendment of regulation 3.L.3**

**100.** In regulation 3.L.3 (Waiting Period Joiners who are in receipt of a lower tier ill-health pension under Regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (5)(b)—
  - (i) for “E2B of the 1995” substitute “E4 of the 2011”; and
  - (ii) for “E2A” substitute “E3”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

### **Amendment of regulation 3.L.5**

**101.** In regulation 3.L.5 (children’s pensions payable on the death of a Waiting Period Joiner), in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”.

### **Amendment of regulation 4.D.1**

**102.** In regulation 4.D.1 (pensionable service limit), in paragraph (5), in the definition of “LPS”, for “1995 Regulations” substitute “2011 Regulations”.

## **PART 4**

### **AMENDMENT OF THE NATIONAL HEALTH SERVICE (SCOTLAND) (INJURY BENEFITS) REGULATIONS 1998**

#### **Amendments to National Health Service (Scotland) (Injury Benefits) Regulations 1998**

**103.** The National Health Service (Scotland) (Injury Benefits) Regulations 1998(7) are amended in accordance with this Part.

#### **Amendment of regulation 2**

**104.** In regulation 2 (interpretation), in paragraph (1)—

- (a) for the definition of “the Superannuation Scheme Regulations” substitute—
  - ““the 2011 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”;
- (b) for the definition of “dental list” substitute—
  - ““dental list” has the meaning given to it by regulation 4 of the National Health Service (General Dental Services) (Scotland) Regulations 2010(8);”;
- (c) in the definition of “average remuneration”—

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(7) S.I. 1998/1594, amended by S.I. 1999/195 and 444, S.S.I. 2001/437, 2004/212, 2005/445, 512, 544 and 2011, 2008/92 and 225, 2009/19 and 208, 2010/369 and 2011/211.

(8) S.S.I. 2010/208.



- (i) in sub-paragraph (a)(i), for “11(2) of Schedule 1 to the Superannuation Scheme” substitute “15(2) of Schedule 1 to the 2011”; and
- (ii) in sub-paragraph (b)(i), for “Superannuation Scheme” substitute “2011”;
- (d) in the definition of “essential services”, for “Superannuation Scheme” substitute “2011”;
- (e) in the definition of “GP performer”, for “Superannuation Scheme” substitute “2011”;
- (f) in the definition of “GP provider”, for “Superannuation Scheme” substitute “2011”;
- (g) in the definition of “GMS contract”, for “Superannuation Scheme” substitute “2011”;
- (h) in the definition of “GMS practice”, for “Superannuation Scheme” substitute “2011”;
- (i) in the definition of “HPBMS contractor”, for “Superannuation Scheme” substitute “2011”;
- (j) omit the definition of “ophthalmic provider”;
- (k) in the definition of “OOH provider”, for “Superannuation Scheme” substitute “2011”;
- (l) in the definition of “practitioner”—
  - (i) for “Superannuation Scheme” substitute “2011”; and
  - (ii) in sub-paragraph (i), for “1995” substitute “2011”;
- (m) in the definition of “the Scheme”, for “Superannuation Scheme” substitute “2011”; and
- (n) in the definition of “section 17 agreement provider”, for “Superannuation Scheme” substitute “2011”.

#### **Amendment of regulation 4**

**105.** In regulation 4 (scale of benefits)—

- (a) in paragraph (6)(a)(i), for “T5 or T6 of the Superannuation Scheme” substitute “T6 or T7 of the 2011”;
- (b) in paragraph (6)(a)(ii)—
  - (i) for “E2A(7) or E7” and insert “E3(7) or E17”;
  - (ii) for “Superannuation Scheme” substitute “2011”; and
- (c) in paragraph (10)(a), for “Superannuation Scheme” substitute “2011”.

#### **Amendment of regulation 8**

**106.** In regulation 8 (child’s allowance), in paragraph (6), for “1995” substitute “2011”.

#### **Amendment of regulation 12**

**107.** In regulation 12 (incidental provisions), in paragraph (3), for “superannuation scheme regulations” substitute “2011 Regulations”.

## PART 5

### AMENDMENT OF THE NATIONAL HEALTH SERVICE SUPERANNUATION SCHEME (SCOTLAND) (ADDITIONAL VOLUNTARY CONTRIBUTIONS) REGULATIONS 1998

#### **Amendments to the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998**

**108.** The National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998(9) are amended in accordance with this Part.

#### **Amendment of regulation 2**

**109.** In regulation 2 (interpretation)—

- (a) in paragraph (1)—
  - (i) omit the definition of “the 1995 Regulations”;
  - (ii) after the definition of “the 2008 Regulations” insert—
    - ““the 2011 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”;
  - (iii) in the definition of “child”, in sub-paragraph (a), for “1995” substitute “2011”;
  - (iv) in the definition of “date of retirement”, in sub-paragraph (a), for “E6 (preserved pension) of the 1995” substitute “E12 (preserved pension) of the 2011”;
  - (v) in the definition of “dependant”, in sub-paragraph (c)(i), for “1995” substitute “2011”;
  - (vi) in the definition of “NHS Superannuation Scheme”, for the words from “1995” to “be” substitute “2011 Regulations (the 1995 Section) and the 2008 Regulations (the 2008 Section)”;
  - (vii) in the definition of “normal benefit age”, in sub-paragraph (a), for “1995” substitute “2011”;
  - (viii) in the definition of “pensionable service”, in sub-paragraph (a), for “1995” substitute “2011”; and
  - (ix) in the definition of “retirement”, in sub-paragraph (a), for “1995” substitute “2011”; and
- (b) in paragraph (2), for “1995” substitute “2011”.

#### **Amendment of regulation 3**

**110.** In regulation 3 (making and acceptance of elections)—

- (a) in paragraph (3)(b), for “1995” substitute “2011”; and
- (b) in paragraph (6), for “1995” substitute “2011”.

#### **Amendment of regulation 4**

**111.** In regulation 4 (payment and amount of additional contributions)—

- (a) in paragraph (3)(b), for “1995” substitute “2011”; and

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(9) S.I. 1998/1451, amended by S.I. 2001/3649, S.S.I. 2001/465, 2004/62, 2005/544, 2006/307, 2008/225, 2010/22 and 369.

- (b) in paragraph (3A)—
  - (i) in the definition of “employer”, for “1995” substitute “2011”; and
  - (ii) in the definition of “salary”, for “1995” substitute “2011”.

#### **Amendment of regulation 6**

- 112.** In regulation 6 (circumstances in which elections cease to have effect)—
- (a) in paragraph (1)(a), for “E6 of the 1995” substitute “E12 of the 2011”;
  - (b) in paragraph (1)(c), for “1995” substitute “2011”; and
  - (c) in paragraph (1)(d), for “1995” substitute “2011”.

#### **Amendment of regulation 9**

- 113.** In regulation 9 (inward transfers: mis-sold pensions)—
- (a) in paragraph (1)—
    - (i) for “1995” substitute “2011”; and
    - (ii) for “N3A” substitute “N5”;
  - (b) in paragraph (2), for “1995” substitute “2011”;
  - (c) in paragraph (3)(b), for “N3A(2)(a) of the 1995” substitute “N5 of the 2011”; and
  - (d) in paragraph (6)—
    - (i) in the definition of “opted out service”, for “N3A(2)(a) of the 1995” substitute “N5 of the 2011”; and
    - (ii) in the definition of “personal pension scheme”, for “1995” substitute “2011”.

#### **Amendment of regulation 10**

- 114.** In regulation 10 (outward transfers)—
- (a) in paragraph (4)(a), for “1995” substitute “2011”;
  - (b) in paragraph (4A)(a), for “(early leaver without preserved pension) of the 1995” substitute “(applications for transfer value payments: time limits) of the 2011”; and
  - (c) in paragraph (8)—
    - (i) in sub-paragraph (b)(i), for “60” substitute “75”; and
    - (ii) in sub-paragraph (b)(ii), for “1995” substitute “2011”.

#### **Amendment of regulation 11**

- 115.** In regulation 11 (retirement and dependants’ pensions)—
- (a) in paragraph (2)(b)(i), for “1995” substitute “2011”; and
  - (b) in paragraph (8), for “1995” substitute “2011”.

#### **Amendment of regulation 14**

- 116.** In regulation 14 (repayment of investments in certain cases), in paragraph (1)(b)(i), for “E9 of the 1995” substitute “E15 of the 2011”.

### **Amendment of regulation 15**

**117.** In regulation 15 (payments by Secretary of State)—

- (a) in paragraph (3)(b)(ii)(aa), for “1995” substitute “2011”;
- (b) in paragraph (9), for “E6 of the 1995” substitute “E12 of the 2011”; and
- (c) in paragraph (10)(a), for the words from “E2(7)” to “1995” substitute “E2(8) (early retirement pension on ill health grounds (pre 1st April 2008)), E3(7) (early retirement on ill health grounds (post 1st April 2008)) or E12(7) (preserved pensions) of the 2011”.

### **Amendment of regulation 19**

**118.** In regulation 19 (offset for crime, negligence or fraud), for “T5 of the 1995” substitute “T6 of the 2011”.

### **Amendment of regulation 20**

**119.** In regulation 20 (loss of rights to benefit) for “T6 of the 1995” substitute “T7 of the 2011”.

### **Amendment of Schedule 2**

**120.** In Schedule 2 (pension sharing on divorce or nullity of marriage or dissolution or nullity of civil partnership)—

- (a) in paragraph 1(5)(b), for “1995” substitute “2011”;
- (b) in paragraph 13(1)(a), for “T5 of the 1995” substitute “T6 of the 2011”;
- (c) in paragraph 14(1)(a), for “T6 of the 1995” substitute “T7 of the 2011”; and
- (d) in paragraph 14(1)(b), for “T6 of the 1995” substitute “T7 of the 2011”.

## **PART 6**

### **AMENDMENT OF THE NATIONAL HEALTH SERVICE (COMPENSATION FOR PREMATURE RETIREMENT) (SCOTLAND) REGULATIONS 2003**

#### **Amendments to the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003**

**121.** The National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003<sup>(10)</sup> are amended in accordance with this Part.

#### **Amendment of regulation 2**

**122.** In regulation 2 (interpretation), in paragraph (1)—

- (a) in the definition of “officer”—
  - (i) for “Superannuation Scheme” in the three places where it occurs substitute “2011”; and
  - (ii) for “E3” substitute “E6”;
- (b) omit the definition of “the Superannuation Scheme Regulations”;
- (c) after the definition of “the 1980 Regulations” insert—

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<sup>(10)</sup> S.S.I. 2003/344, amended by S.S.I. 2005/512 and 544, 2006/561, 2008/92 and 225, and 2011/211.

“the 2011 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”;

- (d) in the definition of “pensionable employment”, for “Superannuation Scheme” substitute “2011”; and
- (e) in the definition of “pensionable service” for “Superannuation Scheme” substitute “2011”.

### **Amendment of regulation 3**

**123.** In regulation 3 (persons to whom the Regulations apply)—

- (a) in paragraph (a), for “E3 of the Superannuation Scheme” substitute “E6 of the 2011”; and
- (b) in paragraph (b)—
  - (i) for “E3B of the Superannuation Scheme” substitute “E8 of the 2011”; and
  - (ii) for “E3” substitute “E6”.

### **Amendment of regulation 4**

**124.** In regulation 4 (payment of compensation)—

- (a) in paragraph (1), for “E7 of the Superannuation Scheme” substitute “E13 of the 2011”;
- (b) in paragraph (2), for “Superannuation Scheme” in both places where it occurs substitute “2011”; and
- (c) in paragraph (3), for “E7 of the Superannuation Scheme” substitute “E13 of the 2011”.

### **Amendment of regulation 5**

**125.** In regulation 5 (crediting of additional period of service)—

- (a) in paragraph (1)(a)(i), for “Superannuation Scheme” substitute “2011”;
- (b) in paragraph (1)(b)(i), for “Superannuation Scheme” substitute “2011”; and
- (c) in paragraph (3), for “Superannuation Scheme” substitute “2011”.

### **Amendment of regulation 6**

**126.** In regulation 6 (calculation of compensation)—

- (a) in paragraph (1)—
  - (i) for “E3 of the Superannuation Scheme” substitute “E6 of the 2011”; and
  - (ii) for “E7” substitute “E13”;
- (b) in paragraph (2), for “Superannuation Scheme” substitute “2011”;
- (c) in paragraph (3), for “Superannuation Scheme” substitute “2011”;
- (d) in paragraph (4), for “E3 of the Superannuation Scheme” substitute “E6 of the 2011”; and
- (e) in paragraph (5), in the definition of “the whole-time equivalent”, for “Superannuation Scheme” substitute “2011”.

### **Amendment of regulation 7**

**127.** In regulation 7 (partial surrender of annual allowance)—

- (a) for “Superannuation Scheme” substitute “2011”;

- (b) for “(allocation of part of pension)” substitute “(allocation of pension by member for benefit of dependant)”; and
- (c) for “Superannuation Regulations” substitute “2011 Regulations”.

#### **Amendment of regulation 8**

**128.** In regulation 8 (compensation payable to widow, widower, surviving civil partner or dependants)—

- (a) in paragraph (2)—
  - (i) for “Superannuation Scheme” substitute “2011”; and
  - (ii) for “Superannuation Regulations” substitute “2011 Regulations”;
- (b) in paragraph (3), for “Superannuation Scheme” substitute “2011”; and
- (c) in paragraph (4)—
  - (i) for “Superannuation Scheme” in both places where it occurs substitute “2011”; and
  - (ii) in the full out, for “Superannuation Regulations” substitute “2011 Regulations”.

#### **Amendment of regulation 9**

**129.** In regulation 9 (compensation where lump sum on death becomes payable)—

- (a) in paragraph (1), for “Superannuation Scheme” where it first occurs substitute “2011”;
- (b) in paragraph (1)(b)—
  - (i) for “E3” substitute “E6”; and
  - (ii) for “E7 of the Superannuation Scheme” substitute “E13 of the 2011”; and
- (c) in paragraph (2), for “F5(3A) of the Superannuation Scheme” substitute “F5(4) or (5) of the 2011”.

#### **Amendment of regulation 10**

**130.** In regulation 10 (adjustments of compensation)—

- (a) in paragraph (1), for “Superannuation Scheme” substitute “2011”; and
- (b) in paragraph (2), in the full out, for “Superannuation Scheme” substitute “2011”.

#### **Amendment of regulation 11**

**131.** In regulation 11 (reduction of compensation in certain cases), for “Superannuation Scheme” substitute “2011”.

#### **Amendment of regulation 14**

**132.** In regulation 14 (miscellaneous provisions relating to payment of compensation), in paragraph (2), for “Superannuation Scheme” substitute “2011”.

## PART 7

### MISCELLANEOUS

#### **Option to persons detrimentally affected by these Regulations**

**133.**—(1) This regulation applies in relation to any benefit which is being paid or may become payable under the regulations amended by these Regulations to or in respect of a person who, having served in an employment or office, service in which qualified the person to participate in the benefits provided under the regulations amended by these Regulations, ceased to serve therein before the provisions of these Regulations, applying to the person, have effect.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Scottish Ministers within 6 months of the coming into force of these Regulations or such longer period as the Scottish Ministers may allow.

(4) An election pursuant to paragraph (2) shall have effect in relation to the benefit referred to in paragraph (1) only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the relevant provisions of these Regulations applying to the person have effect) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if that person had never recommenced service at any time after that cessation (or, as the case may be, the last such cessation).

St Andrew's House,  
Edinburgh  
4th October 2011

*JOHN SWINNEY*  
A member of the Scottish Executive

We consent

19th October 2011

*MICHAEL FABRICANT*  
*ANGELA WATKINSON*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service Superannuation Scheme (Scotland) Regulations 2011, the National Health Service Pension Scheme (Scotland) Regulations 2008, the National Health Service (Scotland) (Injury Benefits) Regulations 1998, the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 and the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003.

Part 1 makes provision in relation to citation, commencement and effect. The provisions take effect from various dates on or before the date of commencement. Section 12(1) of the Superannuation Act 1972 provides authority for the provisions referred to in regulation 1(3) to (9) to take effect from a date earlier than the making of the Regulations.

Part 2 makes the following amendments to the National Health Service Superannuation Scheme (Scotland) Regulations 2011 which have effect from 1st April 2011, except regulations 14(a)(i) and (iii) which have effect from 2nd July 2010, regulations 6(b), 7, 12 and 13 which have effect from 6th April 2011, regulations 5(c), (d) and (e) which has effect from 1st October 2011, and regulations 5(a) and 10(c) which have effect from 1st December 2011—

- regulation 3 amends regulation B2(1)(o)(iv) to make it clear that it refers to contributions under regulation E15;
- regulation 4 corrects a reference in regulation C2(5);
- regulation 5(a) amends regulation D2(3) to require the Scottish Ministers to consider the advice of the scheme actuary when determining the employer rate of contributions;
- regulation 5(b) amends regulation D2(5)(a) to make it clear that the reference to the costs of providing a pension under regulation E6 and E7 both include any amount that is exchanged for a lump sum under regulation E17;
- regulation 5(c) to (e) amends regulation D2(7) to remove, in respect of a pension payable under regulation E7, the option of making additional payments under paragraph (5)(a), (b), (d) and (e) before the end of each quarter;
- regulation 6(a) amends regulation E13(2) to make it clear that additional pension purchased by members does not attract a fixed lump sum;
- regulation 6(b) amends regulation E13(4) so that a member who attains the age of 75 on or after 6th April 2011 does not cease to be entitled to a lump sum under regulation E13(1);
- regulation 7 amends regulation F2(7) so that if a member who has attained the age of 75 dies on or after 6th April 2011, the lump sum referred to in regulation F2(1) does not cease to be payable;
- regulation 8 corrects a reference in regulation G13(2);
- regulation 9 amends regulation G14(3)(c) to make it clear that a declaration under subparagraph (2)(a) ceases to have effect if the member or the nominated partner marries or enters into a civil partnership with a third person (i.e. someone other than the nominated partner or member);
- regulation 10(a) and (b) updates references;



- regulation 10(c) amends regulation L1(3)(b) to provide that there will be no increase to any of a member's pensionable service under that regulation if service before and after a break is treated separately;
- regulation 11(a) corrects a minor error in regulation S2(2)(b)(i);
- regulation 11(b) amends regulation S2(2)(c)(ii) so that a relevant pension for the purposes of regulation S2(1)(b) includes a pension payable, where the member is a special class of officer and regulation R3(10) applies, in accordance with regulation E12(2)(b);
- regulation 12 amends regulation T3 so that where paragraph (8)(b) or new paragraphs (8A) or (8B) apply, the scheme administrator must deduct tax at the rate of 55% (rather than 35%) or such other rate as applies, from the lump sum in accordance with section 205A or 206 of the Finance Act 2004, whichever section applies;
- regulation 13 amends regulation V13(6) so that if a member who has attained the age of 75 dies on or after 6th April 2011, the lump sum referred to in regulation V16(1) does not cease to be payable;
- regulation 14(a) updates definitions in paragraph 1 of Schedule 1 to take account of the changes made in other legislation including the National Health Service (General Dental Services) (Scotland) Regulations 2010;
- regulation 14(b) amends and clarifies provision in paragraph 14 of Schedule 1 to require the contributions to be paid at the relevant rate on the basis of whichever of sub-paragraph (10) (a) to (c) the host Health Board (or someone appointed on its behalf) considers the most appropriate.

Part 3 makes the following amendments to the National Health Service Pension Scheme (Scotland) Regulations 2008 which have effect from 1st April 2011, except regulations 22, 25, 36, 59(f), 65 and 70 which have effect from 1st April 2008, regulations 22 and 64 which have effect from 1st October 2008, regulations 19(c) and 61(d) which have effect from 1st April 2010, regulations 17(d) and (e) and 59(d) and (e) which have effect from 2nd July 2010, and regulations 24, 29, 32, 37, 67, 74, 77 and 81 which have effect from 6th April 2011—

- regulation 17(d) and (e) and regulation 59(d) and (e) omit unused definitions of “dental list” and update the meaning of “dentist” in regulation 2.A.1(1) and 3.A.1(1) to mirror the definition in the National Health Service (General Dental Services) (Scotland) Regulations 2010;
- regulations 19(c) and 61(d) amend, respectively, the meaning of a member's qualifying service in regulations 2.A.5(1) and 3.A.5(1) to include, in the case of a Waiting Period Joiner or a person who is eligible to join the 1998 Section by virtue of regulation 2.B.1(5)(e), (g) or (h), the period of qualifying service that the member is entitled to count under the 1995 Section;
- regulations 22 and 64 amend, respectively, regulations 2.C.1(8) and 3.C.1(3) to add, respectively, consequential references to regulation 2.A.4(3A) and 3.A.4(3A);
- regulations 24 and 67 amend, respectively, regulations 2.D.15(4) and (5) and regulations 3.D.11(4) and (5) to remove restrictions preventing a relevant member for the purposes of those paragraphs being paid after reaching the age of 75;
- regulations 25 and 70 amend, respectively, regulations 2.E.9(1)(c)(i) and 3.E.9(1)(c)(i) so that the meaning of a dependent child, in relation to a deceased member or recent leaver, includes a relevant child who was born before the deceased ceased to be an active member (and not just whilst an active member);
- regulations 29 and 74 amend regulations 2.E.16(1) and 3.E.16(1) so that a lump sum is also payable if (on or after 6th April 2011) a pensioner member, on or after reaching age 75, dies except in the circumstances described in regulations 2.E.20A and 3.E.20A;
- regulations 32 and 77 amend regulations 2.E.20A(1) and 3.E.20A(1) so that these provisions apply only if the circumstances described took place before 6th April 2011;

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- regulation 36 corrects a reference;
- regulations 37 and 81 amend, respectively, regulations 2.J.8 and 3.J.8 so that where paragraph (4), or new paragraphs (6) or (8), apply the scheme administrator may deduct the tax payable under section 205A or 206 of the Finance Act 2004, whichever section applies, before the lump sum is paid;
- regulation 62(a) replaces a previous amendment to regulation 3.B.1(5)(d)(ii) and clarifies, in doing so, where this amendment is to be made;
- regulation 65 amends and clarifies regulation 3.C.2(6) to require the contributions to be paid at the relevant rate on the basis of whichever of sub-paragraphs (a) to (c) the host Health Board (or someone appointed on its behalf) considers the most appropriate;
- regulation 68 amends regulation 3.D.18(7) to make it clear that the first reference to “the scheme” is a reference to the Section of the scheme, the rules of which are set out in the National Health Service Pension Scheme (Scotland) Regulations 2008;
- the other provisions in this Part replace references to provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 1995 with references to the provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 2011 which superseded them and make adjustments for connected purposes.

Part 4 makes the following amendments to the National Health Service (Scotland) (Injury Benefits) Regulations 1998 which have effect from 1st April 2011, except regulation 104(b) which has effect from 2nd July 2010—

- regulation 104(b) amends the definition of “dental list” in regulation 2(1) to mirror the corresponding definition in the National Health Service (General Dental Services) (Scotland) Regulations 2010;
- the other provisions in this Part replace references to provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 1995 with references to the provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 2011 which superseded them.

Part 5 makes the following amendments to the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 which have effect from 1st April 2011, except regulation 114(c)(i) which has effect from 6th April 2011—

- regulation 114(c)(i) amends regulation 10(8) to increase, from 60 to 75, the upper age limit for a person to be eligible to request a transfer, under and in accordance with paragraph (1) of that regulation, of the value of investments made in relation to that person under regulation 7(1), 8(2) or 9(4) of those Regulations;
- the other provisions in this Part replace references to provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 1995 with references to the provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 2011 which superseded them.

Part 6 amends the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003 with effect from 1st April 2011 to replace references to provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 1995 with references to the provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 2011 which superseded them.

Part 7 comes into force on 1st December 2011 and provides that certain persons detrimentally affected by these Regulations may elect for the provisions not to apply to them.