
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 96

**The National Health Service Superannuation Scheme
(Miscellaneous Amendments) (Scotland) Regulations 2015**

PART 2

**Amendment of the National Health Service
Superannuation Scheme (Scotland) Regulations 2011**

General

2. The National Health Service Superannuation Scheme (Scotland) Regulations 2011(1) are amended in accordance with regulations 3 to 17.

Amendment of regulation A2

3. In the table in paragraph (4) of regulation A2 (interpretation), at the appropriate place in alphabetical order insert—

<i>“Expression</i>	<i>Meaning</i>
“the 2013 Act”	The Public Service Pensions Act 2013(2);
“the 2015 Scheme”	The scheme set out in the National Health Service Pension Scheme (Scotland) Regulations 2015(3);
“civil partner” and “civil partnership”	Are to be construed in accordance with regulation A4;
“marriage” and “married”	Do not include a reference to marriage of a same sex couple unless otherwise provided;
“registered medical practitioner”	A fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983(4);
“widow” and “widower”	Do not include a reference to marriage of a same sex couple;”.

Insertion of new regulation A4

4. After regulation A3, insert—

(1) S.S.I. 2011/117.
(2) 2013 c.25.
(3) S.S.I. 2015/94.
(4) 1983 c.54.

“Civil partnerships and marriage of same sex couples

A4.—(1) In these Regulations, a reference to—

- (a) civil partnership is to be read as including a reference to marriage of a same sex couple and a reference to civil partners and a person who is in a civil partnership is to be construed accordingly;
- (b) a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, a reference to a person whose civil partnership has ended, or a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) In this regulation, “civil partnership” and “civil partners” have the meanings given by section 1 of the Civil Partnership Act 2004⁽⁵⁾.

(5) Where—

- (a) a deceased member of this Scheme was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004⁽⁶⁾, and
- (b) at the time of the member’s death, the member was married to a woman and that marriage subsisted before the time when the certificate was issued,

the member’s widow is to be treated for the purposes of Part G and Part K of these Regulations as if the certificate had not been issued.”.

Amendment of regulation C1

5. In paragraph (1)(a) of regulation C1 (meaning of “pensionable pay”), after “bonuses” insert “pay awards and pay increases that are expressed by the Scottish Ministers to be non-consolidated,”.

Amendment of regulation D1

6. In paragraph (2) of regulation D1 (contributions by members)—

- (a) for “2014-2015”, substitute “2015-16”; and
- (b) for the table, substitute—

“Scheme Year 2015-2016

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable pay band</i>	<i>Contribution percentage rate</i>
Up to £15,828	5.2%
£15,829 - £21,601	5.8%
£21,602 - £27,089	7.3%

(5) 2004 c.33.

(6) 2004 c.7.

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable pay band</i>	<i>Contribution percentage rate</i>
£27,090 - £49,967	9.5%
£49,968 - £71,337	12.7%
£71,338 - £111,376	13.7%
£111,377 to any higher amount	14.7%

Amendment of regulation D2

7. In paragraph (4) of regulation D2 (contributions by employing authorities), for “13.5” substitute “14.9”.

Amendment of regulation E7

8. In regulation E7 (early retirement pension (redundancy etc. new starters and post-transition)—

- (a) in paragraph (4), for “A person” insert “Subject to paragraph (4A), a person”; and
- (b) after paragraph (4), insert—

“(4A) A member who satisfies the conditions in paragraph (2) is not entitled to a pension under this regulation if the Scottish Ministers, after consultation with the scheme actuary, decide that the amount of the pension would be less than the amount of the guaranteed minimum pension to which the member is entitled.”.

Amendment of regulation G1

9. For paragraphs (8) and (9) of regulation G1 (widow’s pension), substitute—

“(8) If the Scottish Ministers are satisfied that the widow will otherwise suffer severe financial hardship, the Scottish Ministers may pay a pension to a widow who—

- (a) has remarried;
- (b) has formed a civil partnership;
- (c) is living together as husband and wife with a man to whom the widow is not married;
- (d) is living together as if in a civil partnership with a woman who is not the widow’s civil partner.

(9) If the Scottish Ministers are satisfied that the widow will otherwise suffer hardship, the Scottish Ministers may pay a pension to a widow who has—

- (a) remarried and that later marriage has come to an end,
- (b) formed a civil partnership which has come to an end.”.

Amendment of Regulation G9

10. In paragraph (4) of regulation G9 (increased widower’s pension), omit sub-paragraph (a) and the word “and” immediately following it.

Amendment of regulation G13

11. In paragraph (6) of regulation G13 (increased surviving civil partner’s pension), omit sub-paragraph (a) and the word “and” immediately following it.

Amendment of regulation G16

12. In paragraph (3) of regulation G16 (purchase of surviving partner's pension in respect of service before 6th April 1988), for sub-paragraph (a) substitute—

- “(a) must be made—
 - (i) during the period beginning on 28th June 2008 and ending on 27th September 2009; or
 - (ii) during the period beginning on 16th December 2014 and ending on 31st December 2015;”.

Amendment of regulation G17

13. In regulation G17 (increased surviving partner's pension)—

- (a) in paragraph (1), for “elects on or before the date determined in accordance with”, substitute “makes a valid election pursuant to”; and
- (b) in paragraph (5), for the words from “no later” to the end substitute “during either of the periods specified in regulation G16(3)(a)”.

Amendment of regulation M1

14. In paragraph (9) of regulation M1 (member's right to a transfer or buy-out), before sub-paragraph (a) insert—

- “(za) a member may require the cash equivalent to be used to acquire rights in one or more of the ways permitted under section 101AE of the 1993 Act;”.

Amendment of regulation M7

15. In paragraph (3)(c) of regulation M7 (member's right to transfer a preserved pension to the 2008 Section), after “Section” insert “ on or before 31st March 2015 and”.

New regulation M7A

16. After regulation M7, insert—

“Member's right to transfer a preserved pension to the 2015 Scheme

M7A.—(1) An active member of the 2015 Scheme, who meets both condition A and one of either condition B or condition C, may require the Scottish Ministers to use the cash equivalent of the member's rights under this Section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

- (2) Condition A is that the member—
 - (a) is entitled to a deferred benefit under regulation E12,
 - (b) has not been a member of the 2008 Section, and
 - (c) became an active member of the 2015 Scheme before attaining the age of 60.
- (3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable employment in respect of which that person is entitled to the pension referred to in paragraph (2)(a), and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(c).
- (4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
 - (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.
- (5) For the purposes of paragraphs (3) and (4), any break in pensionable employment where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.
- (6) The Scottish Ministers must provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations at the guarantee date ("a statement of entitlement").
- (7) In this regulation, "the guarantee date" means any date that falls within the required period and is—
- (a) chosen by the Scottish Ministers,
 - (b) specified in the statement of entitlement, and
 - (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.
- (8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.
- (9) In paragraph (7), "the required period" means—
- (a) the period of three months beginning with the date that the Scottish Ministers receive notification from the member's employing authority that the member has joined the 2015 Scheme; or
 - (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Scottish Ministers, the requisite information cannot be obtained to calculate the amount of the cash equivalent.
- (10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part 1 of the Pensions (Increase) Act 1971.
- (11) The Scottish Ministers shall—
- (a) take advice from the scheme actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
 - (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996(7).
- (12) Except in the case of a transfer payment accepted under regulation N5, a member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation N1(5), plus the amount of the member's contributions to this Section of the scheme.
- (13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Scottish Ministers for the cash equivalent of the member's rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.
- (14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—

- (a) to be made in writing on the form provided for this purpose by the Scottish Ministers;
 - (b) to be made before the end of the period of three months beginning with the guarantee date;
 - (c) irrevocable.
- (15) On the making of such an application—
- (a) a member becomes entitled to be credited with an increase to the member’s pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member’s benefits under this Section of the scheme calculated in accordance with regulation 144 of the 2015 Scheme, and
 - (b) the member’s rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member’s pensionable earnings and a period of pensionable service in accordance with regulation 144 of the 2015 Scheme.
- (16) A member’s right to require the Scottish Ministers to use the cash equivalent of the member’s rights in the way referred to in paragraph (1) may only be exercised once.”

Amendment of Schedule 1

17. In Schedule 1 (medical and dental practitioners), for sub-paragraph (2) of paragraph 14 (contributions to this Section of the scheme) substitute—

- “(2) For the purposes of this paragraph, the “relevant table” means—
- (a) in respect of the 2014-2015 scheme year, table 1;
 - (b) in respect of the 2015-2016 scheme year, table 2.

Table 1: Scheme Year 2014-2015

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,828	5%
£15,829 to £21,601	5.6%
£21,602 to £27,089	7.1%
£27,090 to £49,967	9.3%
£49,968 to £71,337	12.5%
£71,338 to £111,376	13.5%
£111,377 to any higher amount	14.5%

Table 2: Scheme Year 2015-2016

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution percentage rate 2015/2016</i>
Up to £15,828	5.2%
£15,829 - £21,601	5.8%

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution percentage rate 2015/2016</i>
£21,602 - £27,089	7.3%
£27,090 - £49,967	9.5%
£49,968 - £71,337	12.7%
£71,338 - £111,376	13.7%
£111,377 to any higher amount	14.7%".