
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 224

**The National Health Service Pension
Scheme (Scotland) Regulations 2008**

PART 3

BENEFITS FOR PRACTITIONERS, ETC.

CHAPTER 3.C

CONTRIBUTIONS

Basic contributions by members

Contributions by members

3.C.1.—(1) Each active member must make contributions to the scheme in respect of the member's pensionable earnings in accordance with regulation 3.C.2.

(2) Contributions under paragraph (1) will be paid at the rate specified in regulation 3.C.2 and in accordance with this Chapter.

(3) A member who is absent from service in circumstances within regulation 3.A.4(1) to (3) (pensionable service: breaks in service) may make contributions to the scheme in respect of the member's pensionable earnings in accordance with those provisions and regulation 3.C.2.

Members' contribution rate

3.C.2.—(1) Contributions under regulation 3.C.1(1) must be paid at the member's contribution rate for the period in question.

(2) Subject to paragraph (3), a member's contribution rate for that period is the percentage specified in column 2 of the following table in respect of the corresponding pensionable earnings range specified in column 1 of the table into which the member's pensionable earnings fall.

<i>Column 1</i> <i>Amount of pensionable earnings</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to 19,682	5%
£19,683 to £65,002	6.5%
£65,003 to £102,499	7.5%
£102,500 to any higher amount	8.5%

(3) The Scottish Ministers may make a determination substituting any or all of the pensionable earnings amounts or contribution rates specified in the table in paragraph (2) with effect from a date specified in the determination.

- (4) Before making a determination under paragraph (3), the Scottish Ministers must consider—
- (a) the advice of the scheme actuary; and
 - (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Scottish Ministers consider appropriate.
- (5) If a practitioner commences practitioner service for the first time (having no earlier practitioner service or earlier Officer service) at any time during the 2008–2009 scheme year—
- (a) that practitioner’s pensionable earnings in respect of that scheme year is the amount agreed between the contracting Health Board or person acting on its behalf on the one hand and the practitioner on the other hand as representing their estimate of practitioner’s pensionable earnings from all practitioner sources for that year; and
 - (b) contributions payable for that part year are those specified in column 2 of the table in paragraph (2) in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to those estimated earnings.
- (6) If a practitioner—
- (a) commences further practitioner service (“the later service”) at any time during the 2008–2009 scheme year;
 - (b) at the time of commencing that later service—
 - (i) has other practitioner service as a practitioner in respect of which he or she is liable to pay contributions in accordance with paragraph (5); or
 - (ii) had previously been, but no longer is, in other practitioner service in respect of which he or she was liable to pay contributions in accordance with paragraph (5), (“the earlier service”); and
 - (c) regardless of whether or not the practitioner also is, or previously also was, in NHS employment under Part 2 of these Regulations during the 2008–2009 scheme year,
- the practitioner must pay contributions in respect of the later service at the rate determined in accordance with paragraph (5) in respect of the earlier service.
- (7) If a practitioner—
- (a) commences practitioner service as a practitioner (“the later service”) at any time during the 2008–2009 scheme year; and
 - (b) regardless of whether or not the practitioner also is, or previously also was, in NHS employment under Part 2 of these Regulations during the 2008–2009 scheme year,
- the practitioner must pay contributions in respect of the later service at the rate determined in accordance with paragraph (5) in respect of the earlier service.
- (8) If a practitioner—
- (a) commences practitioner service as a practitioner (“the later service”) at any time during the 2008–2009 scheme year;
 - (b) at the time of commencing that later service had not been in any other practitioner service;
 - (c) prior to commencing that later service has been in NHS whole-time or part time employment in respect of which he or she was liable to pay contributions to the scheme as an officer in accordance with regulation 2.C.2 (“the earlier service”); and
 - (d) had ceased all those earlier officer services prior to commencing the later service,
- the practitioner must pay contributions in respect of the later service at the rate determined in accordance with paragraph (5) of this regulation in respect of the earlier service.

(9) Where paragraph (8) applies and the practitioner had 2 or more earlier officer services, that practitioner shall pay contributions in respect of the later service referred to in paragraph (8)(a) at the rate determined—

- (a) in accordance with regulation 2.C.2 in respect of whichever of the earlier officer services is the last to cease; or
- (b) where all of those earlier officer services, or the last 2 or more of them, cease on the same day, in accordance with paragraph (5).

(10) Where paragraph (8) applies the practitioner must pay contributions in respect of the later service referred to in paragraph (8)(a) at the rate determined in accordance with paragraph (5).

(11) If, apart from this paragraph, the earnings for a scheme year in respect of a member's whole-time employment would not be a whole number of pounds, it must be rounded down to the nearest whole pound.

(12) If, in the 2008–2009 scheme year a member is in practitioner service and concurrently in NHS employment in respect of which he or she is liable to pay contributions in accordance with regulation 2.C.2, contributions payable in respect of the member's practitioner service are determined under this Part and contributions payable in respect of the member's NHS employment are determined under Part 2.

Contributions by employing authorities: general

3.C.3.—(1) Each employing authority must contribute to the scheme, in respect of each person who is an active member of the scheme in an employment with the authority, at such a rate as the Scottish Ministers specify from time to time.

(2) In specifying such a rate, the Scottish Ministers must take account of the cost of providing for any increase in pensions under the scheme as a result of orders made under the provisions of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975⁽¹⁾.

(3) Any contributions payable under this regulation must be paid to the Scottish Ministers.

(4) If for any period a person holds more than one employment with an employing authority in respect of which the person is an active member of the scheme, this regulation applies in respect of each of those employments as if it were the only employment held.

(5) The rate for the period commencing on 1st April 2008 and ending on 31st March 2009 is 14.0 per cent.

Guarantees, indemnities and bonds

3.C.4.—(1) This regulation applies if—

- (a) an employing authority fails to pay contributions in accordance with regulation 3.C.3; and
- (b) the authority is—
 - (i) a GMS practice;
 - (ii) an HBPMS practice;
 - (iii) a section 17C agreement provider; or
 - (iv) an OOH provider.

(2) The Scottish Ministers may require the authority to have in force a guarantee, indemnity or bond which provides for payment to the Scottish Ministers, should that authority fail to meet them, of all future liabilities of the authority under—

- (a) these Regulations; or

(1) 1975 c. 14. Section 59 was consolidated in the Social Security Contributions and Benefits Act 1992 (c. 4).

(b) the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998(2).

(3) The guarantee, indemnity or bond must be in such form, in respect of such an amount and provided by such a person as the Scottish Ministers approve for the purpose.

Payment of Contributions

3.C.5.—(1) Contributions under this part must be paid in respect of all periods of practitioner service—

- (a) until the member completes 45 years pensionable service; or
- (b) where the notice required by regulation 3.A.3(3) (meaning of “pensionable service”) has been received, until the member ceases practitioner service.

(2) Except where paragraph (3) applies, principal practitioners must pay C1 contributions to the contracting Health Board or someone appointed to act on its behalf, and dental practitioners must pay such contributions to the Common Services Agency for the Scottish Health Service(3).

(3) Where a principal practitioner is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, that authority must—

- (a) deduct C1 contributions from any pensionable earnings it pays to him or her; and
- (b) where it is not also the contracting Health Board, pay those contributions to that Health Board or to someone appointed to act on their behalf.

(4) Subject to paragraph (5), where a principal practitioner is—

- (a) an employing authority which is a GMS practice, a section 17C provider or an HBPMS contractor; or
- (b) a shareholder or partner in such an employing authority,

that employing authority must pay C3 contributions to the contracting Health Board, or someone appointed to act on its behalf.

(5) Where the principal practitioner is a shareholder or partner in more than one employing authority referred to in sub-paragraph (4), each employing authority must pay C3 contributions on any pensionable earnings it pays to the practitioner or, as the case may be, on the practitioner’s share of the partnership profits, to the contracting Health Board, or someone appointed to act on its behalf.

(6) If paragraph (3) applies (but paragraph (4) does not) and the employing authority referred to in that paragraph is—

- (a) not the contracting Health Board, that authority must pay C3 contributions to that Board; or
- (b) is the contracting Health Board that Board must pay C.3 contributions to the Scottish Ministers in respect of any pensionable earnings it pays to him or her.

(7) Where an assistant practitioner (other than a locum practitioner) is engaged under a contract of service or for services by an employing authority, that authority must—

- (a) deduct C1 contributions from any pensionable earnings it pays to the assistant practitioner; and
- (b) where it is not also the contracting Board, pay those contributions to that Board, or someone appointed to act on its behalf.

(8) In the cases of an assistant practitioner, if paragraph (7) applies, and the employing authority referred to in that paragraph—

(2) S.I.1998/1451, as amended by S.I. 2001/3649 and S.S.I. 2001/465, 2004/62, 2005/544, 2006/307 and 2008/92.

(3) The Agency was constituted under section 10 of the 1978 Act.

- (a) is not the contracting Health Board, that authority must pay C3 contributions to the contracting Health Board or to someone appointed to act on its behalf; or
- (b) is the contracting Health Board that Board must pay C1 and C3 contributions to the Scottish Ministers in respect of any pensionable earnings it pays to such a practitioner.

(9) Locum practitioners must pay C1 contributions to the contracting Health Board, or someone appointed to act on its behalf.

(10) If a locum practitioner is liable to pay contributions under paragraph (9) in respect of pensionable locum work done for an employing authority which is not—

- (a) the contracting Health Board;
- (b) a GMS practice;
- (c) a section 17C agreement provider; or
- (d) an HBPMS contractor,

that employing authority must pay C1 contributions to the contracting Health Board, or someone appointed to act on its behalf.

(11) If contributions are payable by a locum practitioner under sub-paragraph (9) in respect of pensionable locum work carried out for an employing authority which is—

- (a) a contracting Health Board;
- (b) a GMS practice;
- (c) a section 17C agreement provider practice; or
- (d) an HBPMS contractor,

the contracting Health Board must pay C3 contributions in respect of such a practitioner.

(12) C1 Contributions that are required to be paid to the contracting Health Board in accordance with this regulation must be paid to that Board or someone appointed on its behalf not later than the 7th day of the month following the month in which the earnings were paid.

(13) Where an employing authority—

- (a) is not the contracting Health Board, it shall be a function of that employing authority to provide the contracting Board or someone appointed to act on its behalf, with a record of any—
 - (i) pensionable earnings paid by it to a practitioner; and
 - (ii) contributions deducted by it in accordance with paragraph (3) or (7), not later than the 7th day of the month following the month in which the earnings were paid; or
- (b) is the contracting Health Board, or someone appointed on its behalf, that has deducted contributions in accordance with paragraph (3) or (7) and is liable to pay C3 contributions in respect of any pensionable earnings it pays to a practitioner, it shall be a function of that Board to maintain a record of—
 - (i) the matters referred to in sub-paragraph (a) (i) and (ii);
 - (ii) any contributions paid to it by a principal practitioner; and
 - (iii) any contributions paid to it by a locum practitioner.

(14) It shall be a function of the contracting Health Board, or someone appointed to act on its behalf, to pay the contributions—

- (a) paid to it by a principal practitioner or locum practitioner;
- (b) paid to it by another employing authority; and

(c) it is liable to pay by virtue of paragraphs (7) (b) and (8) (b), in accordance with the provisions of this paragraph, to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid.

(15) Without prejudice to any other method of recovery, in respect of C1 contributions, if—

- (a) a principal practitioner, assistant practitioner or locum practitioner has failed to pay contributions; or
- (b) an employing authority has failed to deduct such contributions,

in accordance with this paragraph, the Scottish Ministers may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member entitled to them if the circumstances in paragraph (16) are met.

(16) The conditions described in paragraph (15) are that—

- (a) the member agrees to such a deduction; and
- (b) the deduction is to the member's advantage.

(17) For the purposes of this regulation—

- (a) "C1 contributions" means contributions payable under regulation 3.C.1 by a practitioner under the scheme; and
- (b) "C3 contributions" means contributions payable under regulation 3.C.3 by an employing authority in respect of a practitioner.

Additional contributions to purchase additional pensions

Member's option to pay additional periodical contributions to purchase additional pension

3.C.6.—(1) An active member may opt to make additional periodical contributions by monthly instalments during the contribution option period—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 3.D (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for 3 or 6 months under Chapter 3E (death benefits)); or
- (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 3E (death benefits) in respect of the member.

(2) A member may exercise an option under paragraph (1) more than once.

(3) If a member exercises an option under paragraph (1), any regular additional contributions must be deducted from the member's earnings, and paid to the Scottish Ministers, in the same manner as is specified in respect of C1 contributions (within the meaning of regulation 3.C.5) in relation to that member.

(4) The annual amount of the periodical contributions payable at the beginning of the contribution option period must not be—

- (a) less than the minimum amount; or
- (b) an amount other than a multiple of the minimum amount.

(5) In paragraph (4) "the minimum amount" means the amount that would, in accordance with tables prepared for the Scottish Ministers by the scheme actuary for the scheme year in which the contributions are paid, be the amount of the contributions required to secure an increase in the member's pension of—

- (a) £250; or

(b) such other amount as the Scottish Ministers may for the time being determine, assuming that the contributions are made in accordance with the option for the remainder of the option period.

(6) The tables referred to in paragraph (5)–

- (a) may specify different amounts for different descriptions of members; and
- (b) may be amended during a scheme year,

but no such amendment affects the contributions payable during that year under any option, except an option under which contributions begin to be paid after the date on which the amendment takes effect.

(7) The total increase in the member’s pension as a result of contributions made under this regulation, taken together with any increase as a result of–

- (a) contributions made under regulation 3.C.8; or
- (b) contributions made under regulation 3.C.9,

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine (taking into account any increase in the member’s pension as a result of the exercise of an option in accordance with regulations 2.C.8 to 2.C.17).

(8) In this Part “the contribution option period”, in relation to an option under this regulation, means a period of whole years, that–

- (a) is specified in the option;
- (b) begins with the pay period in respect of which the first contribution is made under the option;
- (c) is not less than 1 year nor more than 20 years; and
- (d) does not end later than the member’s 65th birthday.

Effect of member being absent or leaving and rejoining the scheme during the contribution option period

3.C.7.—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation 3.C.6–

- (a) is absent from work because of illness or injury;
- (b) is on maternity leave;
- (c) is on adoption leave;
- (d) is on paternity leave;
- (e) is on parental leave; or
- (f) is on a leave of absence of the kind mentioned in regulation 3.A.4(3).

(2) If paragraph (1) applies–

- (a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation 3.C.1; and
- (b) if the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation 3.C.1 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

(3) This paragraph applies if–

- (a) a member exercises the option under regulation 3.C.6;

- (b) the member ceases to be an active member during the contribution option period; and
- (c) the member becomes an active member again before the end of the period of 12 months beginning with the day on which the member ceased to be an active member.

(4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after becoming an active member again unless a repayment of contributions has been made to the member under regulation 3.C.16.

(5) For the purposes of paragraph (4) it does not matter whether the member has paid any of the repaid contributions back to the Scottish Ministers.

Member's option to pay lump sum contribution to purchase additional pension

3.C.8.—(1) An active member may opt to make a single lump sum contribution—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 3.D (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for 3 or 6 months under Chapter 3.E (death benefits)); or
- (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 3.E (death benefits) in respect of the member.

(2) A member may only make a contribution under this regulation of an amount that is—

- (a) not less than the minimum amount; and
- (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount.

(3) In paragraph (2) “the minimum amount” means the amount that is, in accordance with tables prepared for the Scottish Ministers by the scheme actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member's pension of—

- (a) £250; or
- (b) such other amount as the Scottish Ministers may for the time being determine.

(4) A member may exercise the option under paragraph (1) more than once.

(5) If a member exercises an option under paragraph (1)—

- (a) the additional contribution is payable by the member to the employing authority—
 - (i) by deduction from the member's earnings or otherwise; and
 - (ii) before the end of the period of one month beginning with the day on which the member is notified by the Scottish Ministers that the option is accepted; and
- (b) the employing authority must pay it to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.

(6) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 3.C.6; or
- (b) contributions made under regulation 3.C.9,

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine taking into account any increase in the member's pension as a result of the exercise of an option in accordance with the regulations 2.C.8 to 2.C.17.

Payment of additional lump sum contributions by employing authority

3.C.9.—(1) The employing authority of an active member may opt to make a single lump sum contribution—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 3.D (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for 3 or 6 months under Chapter 3.E (death benefits)); or
- (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 3.E (death benefits) in respect of the member.

(2) An employing authority may only make a contribution under this regulation of an amount that is—

- (a) not less than the minimum amount (as defined in regulation 3.C.8(3)); and
- (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount (as so defined).

(3) An employing authority may only exercise the option under paragraph (1) with the member's consent, but may exercise it more than once in respect of the same member.

(4) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 3.C.6; or
- (b) contributions made under regulation 3.C.8,

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine taking into account any increase in the member's pension as a result of the exercise of an option in accordance with regulations 2.C.8 to 2.C.17).

(5) A contribution under this regulation must be paid by the employing authority to the Scottish Ministers within one month of the date on which the authority gave the Scottish Ministers notice under regulation 3.C.10(2).

Exercise of options under regulations 3.C.6, 3.C.8 and 3.C.9

3.C.10.—(1) A member exercising an option under regulation 3.C.6 or 3.C.8 must do so by giving notice in writing to the employing authority, giving such information as may be required and must at the same time provide the Scottish Ministers with a copy of that notice.

(2) An employing authority exercising an option under regulation 3.C.9 must do so by giving notice in writing to the Scottish Ministers, giving such information as may be required.

(3) An option under regulation 3.C.6, 3.C.8 or 3.C.9 may not be exercised during a period whilst the member is absent from work for any reason.

(4) For the purposes of this Part—

- (a) a member is treated as exercising an option under regulation 3.C.6 or 3.C.8 on the date on which the employing authority receives the member's notice under paragraph (1); and
- (b) an employing authority is treated as exercising an option under regulation 3.C.9 on the date on which the Scottish Ministers receive the authority's notice under paragraph (2).

(5) The Scottish Ministers may refuse to accept an option exercised under regulation 3.C.6, 3.C.8 or 3.C.9 and must do so if not satisfied that—

- (a) the member is in good health; and

- (b) in the case of an option exercised under regulation 3.C.6, there is no reason why the member's health should prevent the member from paying the contributions for the whole contribution period.
- (6) If the Scottish Ministers refuse to accept such an option—
 - (a) the Scottish Ministers must give notice in writing of that fact—
 - (i) in the case of an option exercised under regulation 3.C.6 or 3.C.8, to the member; and
 - (ii) in the case of an option exercised under regulation 3.C.9, to the employing authority and the member; and
 - (b) this Part applies as if the option had not been exercised.
- (7) These Regulations also apply as if an option under regulation 3.C.8 or 3.C.9 had not been exercised if—
 - (a) in the case of an option under regulation 3.C.8, the payment is not received by the employing authority—
 - (i) before the end of the period of one month beginning with the day on which the Scottish Ministers notify the member of the acceptance of the option; or
 - (ii) if it is earlier, on or before the member's 65th birthday; and
 - (b) in the case of an option under regulation 3.C.9, the payment is not received by the Scottish Ministers—
 - (i) before the end of the period of one month beginning with the day on which the authority gave the Scottish Ministers notice under paragraph (2); or
 - (ii) if it is earlier, on or before the member's 65th birthday.

Cancellation of options under regulation 3.C.6

3.C.11.—(1) A member may cancel an option under regulation 3.C.6(1) by giving the employing authority notice in writing.

(2) If a member cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date on which the employing authority receives the notice and all subsequent pay periods.

(3) If it appears to the Scottish Ministers that the requirement in regulation 3.C.6(7) will not be met if the member continues to make periodical contributions under an option exercised under regulation 3.C.6, the Scottish Ministers may cancel the option by giving the member notice in writing.

(4) If the Scottish Ministers cancel such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods.

Effect of payment of additional contributions under this Chapter

3.C.12.—(1) This regulation applies if—

- (a) an option is exercised by a member under regulation 3.C.6 and all the contributions to be made under the option are made; or
- (b) an option is exercised by a member under regulation 3.C.8 or by a member's employing authority under regulation 3.C.9 and the lump sum payment is made.

(2) Subject to paragraph (9) the member's pension is increased by the full amount of the increase to be made in accordance with the terms of the option, after the final adjustment in that amount in accordance with regulation 3.C.15.

(3) Paragraph (2) is without prejudice to any increase or reduction falling to be made in the total amount of the member's pension under Chapter 3.D (members' retirement benefits) as a result of the member becoming entitled to payment of the pension before or after reaching the age of 65 (see regulations 3.D.3 to 3.D.5).

(4) In the case of an option under regulation 3.C.6(1)(b), 3.C.8(1)(b) or 3.C.9(1)(b), any pension payable under Chapter 3.E (death benefits) in respect of the member is increased by the appropriate amount.

(5) In paragraph (4), subject to regulations 3.C.13 and 3.C.14(3), "the appropriate amount" means—

- (a) in the case of a pension under regulation 3.E.1 (surviving adult dependant's pension) the amount of which is determined under regulation 3.E.3 (active members) or 3.E.5 (deferred members), 37.5 per cent of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));
- (b) in the case of a pension under regulation 3.E.1 the amount of which is determined under regulation 3.E.4 (pensioner members), 37.5 per cent of the amount of the increase in the member's pension under paragraph (2) as a result of the option;
- (c) in the case of a pension under regulation 3.E.8 (surviving children's pension) the amount of which is determined under regulation 3.E.10 (amount of children's pension under regulation 3.E.8: deceased active members) or 3.E.12 (amount of children's pension under regulation 3.E.8: deceased deferred members), the appropriate fraction (within the meaning of regulation 3.E.10 or, as the case may be, 3.E.12) of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3)); and
- (d) in the case of a pension under regulation 3.E.8 the amount of which is determined under regulation 3.E.11 (pensioner members), the appropriate fraction (within the meaning of that regulation) of 75 per cent of the amount of the increase in the member's pension as a result of the option.

(6) Except as provided in regulation 3.D.5 (partial retirement (members aged at least 55)), no separate claim is required as respects any additional pension payable by virtue of this regulation.

(7) This regulation is subject to regulation 3.C.13.

(8) For the effect of the options under regulation 3.C.6 where this regulation does not apply, see regulation 3.C.14 (effect of part payment of periodical contributions).

(9) Paragraph (10) applies only to an option under regulation 3.C.6(1)(a), 3.C.8(1)(a) or 3.C.9(1)(a), where a pension is to be paid for either 3 or 6 months at the same rate as the member's pension was being paid at the date of that member's death.

(10) Any increase to the member's pension shall be included only in a benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations whilst it is being paid at the rate and for the duration of one of the periods referred to in paragraph (9).

Effect of death or early payment of pension after option exercised under regulation 3.C.6, 3.C.8 or 3.C.9

3.C.13.—(1) If a member in respect of whom an option under regulation 3.C.6, 3.C.8 or 3.C.9 has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation 3.C.6 or 3.C.8, to the member's personal representatives; and

(ii) in the case of an option under regulation 3.C.9, to the employing authority which made the contribution; and

(b) regulation 3.C.12(4) does not apply.

(2) If a member in respect of whom an option under regulation 3.C.6 has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation 3.C.12(4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation 3.C.6, 3.C.8 or 3.C.9 has been exercised becomes entitled to a pension under regulation 3.D.7 (early retirement on ill health (active members)) as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

(a) regulation 3.C.12(2) and (4) does not apply; and

(b) an amount equal to the contributions paid under the option must be paid—

(i) in the case of an option under regulation 3.C.6 or 3.C.8, to the member; and

(ii) in the case of an option under regulation 3.C.9, to the employing authority which made the contribution.

(4) If a member in respect of whom an option under regulation 3.C.6 has been exercised becomes entitled to a pension under regulation 3.D.7 before the end of the contribution option period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation 3.C.12(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation 3.C.6, 3.C.8 or 3.C.9 has been exercised—

(a) becomes entitled to a pension under regulation 3.D.4 (early payment of pensions with actuarial reduction) or 3.D.9 (early retirement on ill health (deferred members)); or

(b) becomes entitled to a pension under regulation 3.D.5 before reaching the age of 65,

the increase in the member's pension under Chapter 3.D which would otherwise be due under regulation 3.C.12(2) or (4) is reduced.

(6) The amount of the reduction is such amount as the Scottish Ministers determine, after consulting the scheme actuary, to be appropriate by reason of the payment of the increase before the member reaches 65.

(7) This regulation is subject to regulation 3.C.14.

Effect of part payment of periodical contributions

3.C.14.—(1) This regulation applies if—

(a) the full number and amount of contributions due under an option under regulation 3.C.6 for the whole contribution option period are not made; and

(b) regulation 3.C.13(1) to (4) does not apply.

(2) The increase in the member's pension under Chapter 3.D is the appropriate proportion of the increase that would have been made under regulation 3.C.12(2) if the full number and amount of contributions had been made (but taking account of regulation 3.C.13(5) if that applies).

(3) In the case of an option under regulation 3.C.6(1)(b), the increase in any benefit payable under Chapter 3.E (death benefits) in respect of the member is the appropriate proportion of the increase that would have been made under regulation 3.C.12(4) if the full number and amount of contributions had been made (but taking account of regulation 3.C.13(5) if that applies).

(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary may determine and specify in guidance given to the Scottish Ministers.

(5) In making a determination under paragraph (4), the scheme actuary must have regard to—

- (a) the proportion that the total contributions paid bears to the full amount of contributions due under an option under regulation 3.C.6 for the whole contribution option period; and
- (b) the preservation requirements.

Revaluation of increases bought under options: members' pensions

3.C.15.—(1) This regulation applies for the purposes of determining the final amount of the increase in a member's pension as a result of the exercise of an option under regulation 3.C.6, 3.C.8 or 3.C.9.

(2) The amount of that increase immediately before the beginning date for that pension is found as follows—

Step 1—

calculate the amount of the increase in accordance with regulations 3.C.14 to 3.C.16 immediately before that date (“the basic amount”);

Step 2—

multiply the basic amount by the retail prices index for the second month before that in which the person becomes entitled to it, to find the Step 2 amount;

Step 3—

divide the Step 2 amount by the retail prices index for the month in which the option was exercised to find the Step 3 amount;

Step 4—

add to the Step 3 amount any amount by which the Step 3 amount would be increased under the Pensions (Increase) Act 1971 if it were the amount of the member's pension, to find the Step 4 amount;

Step 5—

divide the Step 4 amount by the Step 3 amount to find the Step 5 factor; and

Step 6—

divide the Step 3 amount by the Step 5 factor to find the adjusted basic amount.

(3) The amount of the increase in a member's pension as a result of the exercise of an option under regulation 3.C.6, 3.C.8 or 3.C.9 as at the beginning date for that pension is—

- (a) if the adjusted basic amount is greater than the basic amount, the adjusted basic amount; and
- (b) otherwise the basic amount.

(4) In this regulation “the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act 1971 (see section 8(2) (meaning of “pension” and other supplementary provisions) of that Act).

Repayment of contributions

Repayment of contributions

3.C.16.—(1) The contributions made by a member under this Chapter are not repayable in any circumstances except if—

- (a) paragraph (2) applies; or
- (b) Chapter 5 of Part 4 of the 1993 Act (early leavers: cash transfer sums and contribution refunds) applies and the payment is made in accordance with that Chapter.

(2) This paragraph applies if—

- (a) a person who is not a pensioner member ceases to be an active member and does not continue to be, or become, an active member for the purposes of Part 2 within 12 months of ceasing practitioner service;
- (b) the person does not fall within regulation 3.D.1(2)(a) to (d) (former members entitled to a pension);
- (c) paragraph (1)(b) does not apply; and
- (d) the person claims repayment of contributions under this regulation by applying in writing to the Scottish Ministers.

(3) If paragraph (1)(b) applies, the person is entitled to be paid the amount to which the person is entitled under Chapter 5 of Part 4 of the 1993 Act, less—

- (a) such part of any contributions equivalent premium paid in respect of the person as is permitted by or under section 61 (deduction of contributions equivalent premium) of the 1993 Act; and
- (b) an amount equal to the income tax payable under section 205 (short service refund lump sum charge) of the 2004 Act as a result of the repayment.

(4) If paragraph (2) applies, the person is entitled to be paid an amount equal to the sum of the contributions made by the person under this Chapter, less the amounts mentioned in paragraph (3) (a) and (b).

(5) If a repayment is made under this regulation, the member's rights under the scheme are extinguished unless the person or the person's spouse or civil partner is entitled to a guaranteed minimum pension under the scheme and a contributions equivalent payment has not been paid.

(6) A person—

- (a) who is entitled to a repayment of contributions under this regulation; and
- (b) whose pensionable service did not cease because the person's employment was terminated at the person's request,

is entitled to interest on the amount of the repayment unless the person's pensionable service ceased because the person's employment was terminated by reason of misconduct or inefficiency.

(7) Subject to paragraphs (8) and (9), the interest is calculated on a compound basis at the rate of 2.5 per cent per year, with yearly rests, for the period starting on 1st April after the contributions were paid and ending with the day the member leaves pensionable service.

(8) Paragraph (7) does not apply if paragraph (1)(b) applies and the person is entitled to a greater amount of interest under Chapter 5 of Part 4 of the 1993 Act.

(9) So far as the contributions were paid under another scheme and were included in a transfer payment to the scheme—

- (a) interest for the period before the transfer payment was made is calculated in accordance with the scheme making the transfer payment (subject to any provision made in any enactment applicable to the transfer); and
- (b) paragraph (7) does not apply as respects that period.