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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 224**

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

**PART 3**

**BENEFITS FOR PRACTITIONERS, ETC.**

**CHAPTER 3.D**

**MEMBERS' RETIREMENT BENEFITS**

*Options to exchange pension for lump sum*

**General option to exchange part of pension for lump sum**

**3.D.10.**—(1) A member, other than a pension credit member, may opt to exchange part of a pension to which the member would otherwise be entitled for a lump sum.

(2) If a member so opts, for every £1 by which the member's annual amount of a pension is reduced, the member is to be paid a lump sum of £12.

(3) An option under paragraph (1) must relate to an annual amount of pension that is a whole number of pounds (and accordingly the lump sum will be exactly divisible by 12).

(4) In paragraphs (2) and (3) "annual amount", in relation to a pension, means the amount of the annual pension to which the member would be entitled under this Chapter apart from the option, together with any increases payable under the Pensions (Increase) Act 1971, calculated as at the time payment would first be due.

(5) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of the Finance Act 2004 (see, in particular, section 241 of, and paragraph 1 of Schedule 29 to, that Act).

(6) If the member has a guaranteed minimum under section 14 (earner's guaranteed minimum) of the 1993 Act in relation to the whole or part of a pension, paragraph (1) only applies to so much of the pension as exceeds that guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme actuary.

(7) The option under this regulation may only be exercised by giving notice in writing to the scheme administrator in such form as the Scottish Ministers require—

- (a) at the time of claiming the pension; or
- (b) before such later time as the scheme administrator specifies in writing.

**Option for members in serious ill health to exchange whole pension for lump sum**

**3.D.11.**—(1) An active member, a deferred member or a pension credit member may opt to exchange a relevant pension for a lump sum if the Scottish Ministers are satisfied that the conditions

for the lump sum to be a serious ill health lump sum for the purposes of the 2004 Act will be met (see paragraph 4 of Schedule 29 to that Act).

(2) For the purposes of paragraph (1), a “relevant pension” is a pension payable to that member under regulation—

- (a) 3.D.1 (normal retirement pensions);
- (b) 3.D.2 (pension credit members' pensions);
- (c) 3.D.7 (early payment of pensions: ill health); or
- (d) 3.D.9 (early retirement on ill health (deferred members)).

(3) The option may only be exercised—

- (a) in the case of a pension payable under regulation 3.D.1 or 3.D.2, before or at the time when the pension becomes payable; and
- (b) in the case of a pension payable under regulation 3.D.7 or 3.D.9, before the pension becomes payable to the member.

(4) An active member aged 65 or over who exercises the option is to be paid, as soon as is reasonably practicable and before reaching the age of 75, an amount equal to the sum of—

- (a) the maximum lump sum to which the member could have become entitled on exercising the option under regulation 3.D.10 if at the appropriate time the member had become entitled to a pension under regulation 3.D.1; and
- (b) the total annual amount of the pension to which the member would have been entitled under regulation 3.D.1 after exercising that option, multiplied by 5.

(5) A pension credit member who exercises the option is to be paid, as soon as is reasonably practicable and before reaching the age of 75, an amount equal to the annual amount of the pension to which the member would have been entitled under regulation 3.D.2, multiplied by 5.

(6) An active member entitled to a pension under regulation 3.D.7 who exercises the option is to be paid, as soon as is reasonably practicable, an amount equal to the sum of—

- (a) the maximum lump sum to which the member could have become entitled on exercising the option under regulation 3.D.10 at the appropriate time; and
- (b) the total annual amount of the pension to which the member is entitled under regulation 3.D.7 after exercising that option, multiplied by 5.

(7) A deferred member entitled to a pension under regulation 3.D.9 who exercises the option is to be paid, as soon as is reasonably practicable, an amount equal to the sum of—

- (a) the maximum lump sum to which the member could have become entitled on exercising the option under regulation 3.D.10 at the appropriate time; and
- (b) the total annual amount of the pension to which the member is entitled under regulation 3.D.9 after exercising that option, multiplied by 5.

(8) In this regulation “the appropriate time” means—

- (a) for the purposes of paragraph (4) and (5) the time when the option under this regulation is exercised; and
- (b) for the purposes of paragraphs (6) and (7) the time payment of the pension under regulation 3.D.7 or, as the case may be, 3.D.9 would otherwise first be due.

(9) In this regulation references to the “annual amount” of a pension are to the amount of the annual pension to which the member would be entitled, together with any increases payable under the Pensions (Increase) Act 1971, calculated as at the appropriate time.

(10) The option under this regulation may only be exercised by notice in writing to the Scottish Ministers in such form as the Scottish Ministers require.