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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 22**

The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2010

PART 2

AMENDMENT OF THE NATIONAL HEALTH SERVICE  
SUPERANNUATION SCHEME (SCOTLAND) REGULATIONS 1995

**Interpretation of Part 2**

2. In this Part an alphanumerical reference to a regulation or a reference to a Schedule is a reference to a provision of the National Health Service Superannuation Scheme (Scotland) Regulations 1995(1) bearing that designation except where the contrary is indicated.

**Amendment of regulation A2**

3. In regulation A2 (interpretation)—

- (a) at the end of paragraph (2)(b) after “these Regulations” insert “and the National Health Service Pension Scheme (Scotland) Regulations 2008; ”; and
- (b) in paragraph (4) in the definition of “the 2008 Scheme” for “means the scheme” substitute “means the Section of the scheme.”

**Amendment of regulation E2B**

4. In regulation E2B(2) (re-assessment of ill health condition determined under regulation E2A)

- (a) at the end of sub-paragraph (c) omit “and”;
- (b) at the end of sub-paragraph (d) insert—
  - “; and
  - (e) the member is not a 2008 Section Optant within the meaning of regulation 2.K.1 or 3.K.1 of the 2008 Regulations who has become entitled to an upper tier ill health pension under regulation 2.D.8 or 3.D.7 of that Section.”.

**Amendment of regulation G3**

5. For regulation G3(3) (widow’s pension when member dies after pension becomes payable) substitute—

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(1) S.I. 1995/365 amended by S.I. 1997/1434 and 1916, 1998/1593, 1999/443, 2001/3649 and 2005/2011 and S.S.I. 2001/437 and 465, 2003/55, 270 and 517, 2005/512 and 544, 2006/307 and 561, 2008/92 and 226 and 2009/19 and 208.

“(3) For the purpose of paragraph (2) no account is to be taken of any reduction to the member’s pension under regulation S2 (reduction of pension on return to NHS employment) unless—

- (a) the member is a 2008 Section Optant within the meaning of regulation 2.K.1 or regulation 3.K.1 of the 2008 Regulations; and
- (b) on the date of the member’s death the member is an active or non-contributing member of that Section.”.

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

6. In regulation G14(1) (surviving nominated partner’s pension) for “who has pensionable service” substitute “whose pensionable employment ceases”.

#### **Amendment of regulation H3**

7. In regulation H3(2A)(b) (child allowance when member dies in pensionable employment) omit “the member’s”.

#### **Amendment of regulation H4**

8. For regulation H4(2) (child allowance when member dies after pension becomes payable) substitute—

- “(2) Subject to paragraphs (2A) and (8)—
  - (a) the allowance will be calculated as described in whichever of paragraphs (3) or (4) apply; and
  - (b) where the member was, on the date of the member’s death—
    - (i) not a 2008 Section Optant within the meaning of regulation 2.K.1 (application of chapter 2.K) or regulation 3.K.1 (application of chapter 3.K) of the 2008 Regulations whose pensionable service—
      - (aa) equalled, or exceeded, 10 years, as a proportion of the amount of the member’s pension based on that service;
      - (bb) was less than 10 years, as a proportion of the amount of that the member’s pension would have been if it had been based on 10 years pensionable service;
    - (ii) a 2008 Section Optant, as a proportion of the amount of the member’s pension.”.

#### **Amendment of Schedule 1**

9.—(1) Schedule 1 (medical and dental practitioners) shall be amended as follows.

(2) In paragraph 9 (officer service treated as practitioner service)—

- (a) in sub-paragraph (1) omit “principal” where it twice occurs;
- (b) in sub-paragraph (3)(a) omit “principal”;
- (c) in sub-paragraph (3)(b) omit “principal”;
- (d) in sub-paragraph (5A)(a) omit “principal”;
- (e) after sub-paragraph (5B), insert—
  - “(5C) If—

- (a) any part of the period of a member's officer service is treated as practitioner service for the purposes of sub-paragraph (1) or (5A) ("the converted service"); and
- (b) any part of the converted service has been credited to the member as a result of a transfer-in under regulation N2 or N3 (but not regulation R7(2)) "the converted service credit",

the amount of pensionable pay deemed to be received in respect of the converted service credit will be calculated in accordance with paragraph 20 of this Schedule."; and

- (f) in sub-paragraph (8) for "been a principal practitioner," substitute "officer service before first becoming a practitioner".

(3) In paragraph 9B (practitioners with benefits from both practitioner and officer service) after sub-paragraph (5) insert—

"(6) Where—

- (a) a member who, before commencing his or her final period of practitioner service, has service as an officer (whether that service as an officer consists of a separate period of such service or two or more such periods);
- (b) that officer service is preceded by an earlier period of practitioner service; and
- (c) some or all of the officer service is not concurrent with the practitioner service,

sub-paragraph (7) applies.

(7) If it would be more favourable, a member referred to in sub-paragraph (6)(a) is entitled to receive a separate pension and retirement lump sum for such part of that officer service that is not concurrent with the member's final period of practitioner service.

(8) The amounts of the pension and retirement lump sum referred to in sub-paragraph (7) are subject to a 1.5% increase for each whole year or part of a year within the increment period and that increase shall—

- (a) be applied in like manner and at the same intervals as an increase applied to a pension under the Pensions (Increase) Act 1971; and
- (c) be effective immediately before the pension and lump sum become payable under these Regulations.

(9) The increment period referred to in sub-paragraph (8) shall—

- (a) begin with the day immediately following the day on which the officer service referred to in sub-paragraph (7) ceased for the last time; and
- (b) end with the day immediately before the pension and retirement lump sum become payable under these Regulations."

## **Schedule 1 of these Regulations**

**10.** Schedule 1 of these Regulations shall have effect.