
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 117

**The National Health Service Superannuation
Scheme (Scotland) Regulations 2011**

PART A

PRELIMINARY

Citation and commencement

A1.—(1) These Regulations may be cited as the National Health Service Superannuation Scheme (Scotland) Regulations 2011.

(2) These Regulations come into force on 1st April 2011.

Interpretation

A2.—(1) Paragraph (4) of this regulation contains a list of expressions and in these Regulations, unless the context otherwise requires, any expression for which there is an entry in the first column of that paragraph has the meaning given against it in the second column or is to be construed in accordance with directions given against it in that column.

(2) In these Regulations, unless the context otherwise requires—

- (a) any reference to a regulation, Part or Schedule identified by a letter or number or both (an “indicator”) is to be construed as a reference to the regulation, Part or Schedule, as the case may be, identified by that indicator in these Regulations, and any reference in a regulation of or a Schedule to these Regulations to a numbered paragraph is to be construed as a reference to the paragraph bearing that number in that regulation or, as the case may be, that Schedule;
- (b) any reference to 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 Pension Scheme (Scotland) Regulations 2008; and
- (c) any reference to this Section of the scheme, except where the context otherwise requires, means these Regulations.

(3) Where these Regulations require anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

(4) The following two columns are those referred to in paragraph (1) of this regulation:—

<i>Expression</i>	<i>Meaning</i>
“the 1978 Act”	The National Health Service (Scotland) Act 1978
	M1
	;

“the 1980 Regulations”	The National Health Service (Superannuation) (Scotland) Regulations 1980 M2 ;
“the 1993 Act”	The Pension Schemes Act 1993 M3 ;
“the 1995 Act”	The Pensions Act 1995 M4 ;
“the 1995 Regulations”	The National Health Service Superannuation Scheme (Scotland) Regulations 1995 M5
“the 1997 Act”	The National Health Service (Primary Care) Act 1997 M6 ;
“the 1999 Act”	The Welfare Reform and Pensions Act 1999 M7 ;
“the 2004 Act”	The Finance Act 2004 M8 ;
[^{F1} “the 2008 Act”]	The Pensions Act 2008;]
“the 2008 Section”	means the Section of the scheme, the rules of which are set out in [^{F2} the National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013];
[^{F3} “the 2010 Regulations”]	The Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010;]
[^{F4} “the 2013 Act”]	The Public Service Pensions Act 2013;]

[^{F4} “the 2015 Scheme”	The scheme set out in the National Health Service Pension Scheme (Scotland) Regulations 2015;]
“active member”	A person who is in pensionable service under this Section of the scheme;
“additional services”	(a) with regard to a GMS practice, the meaning given in [^{F5} schedule 1 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018]; and (b) with regard to any other performer or provider of primary medical services, means services which, if provided by a GMS practice, would be additional services within the meaning given in Schedule 1 to those Regulations;
“age”	Shall be construed in accordance with section 181(1) of the 1993 Act;
“appropriate percentage”	The meaning given in regulation V5(4);
“appropriate rights”	The meaning given in regulation V11(1);
“assistant practitioner”	The meaning given in paragraph 1 of Schedule 1;
[^{F6} “automatic enrolment date”	The date referred to in section 3(7) of the 2008 Act;
“automatic re-enrolment date”	The date determined in accordance with regulation 12 of the 2010 Regulations (as modified by regulation 14 of those Regulations);]
“buy-out policy”	A policy of insurance or annuity contract that is appropriate for the purposes of section 19 of the 1993 Act ^{M9} (extinguishment of liability of scheme for pensions secured by insurance policies or annuity contracts) and satisfies any requirements of Revenue and Customs [^{F7} : and “buy-out” is to be construed accordingly];

“cash equivalent”	Is to be construed in accordance with [F8Chapter 1 (transfer rights: general) of Part 4ZA] of the 1993 Act;
“CCT”	means a Certificate of Completion of Training awarded under section 34L(1) of the Medical Act 1983, including any such certificate awarded in pursuance of the competent authority functions of the General Medical Council specified in section 49B of, and Schedule 4A to, that Act;
“certification services”	Services related to the provision of the medical certificates listed in [F9schedule 4 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018];
[F4“civil partner” and “civil partnership”	Are to be construed in accordance with regulation A4;]
“collaborative services”	<p>Primary medical services provided by a GP performer, a GMS practice, a section 17C agreement provider, an HBPMS contractor or an OOH provider under or as a result of an arrangement between—</p> <p>(a) the Scottish Ministers or a Health Board; and</p> <p>(b) a local authority,</p> <p>under section 15 of the 1978 Act M10</p> <p>, under which the Scottish Ministers or the Health Board is responsible for providing services for purposes related to the provision of health care;</p>
“commissioned services”	<p>Services provided under a contract between—</p> <p>(a) a GP performer, a GMS practice, a section 17C agreement provider, an HBPMS contractor or an OOH provider; and</p> <p>(b) either—</p> <p>(i) a Special Health Board, which relates to the provision of health care; or</p>

- (ii) the Scottish Ministers or a Health Board under section 16(1) of the 1978 Act,

which is for the purposes of the health service;

[^{F10}“contracted-out employment”

the meaning given in section 8 of the 1993 Act;]

“Contracting Health Board”

- (a) in the case of a non GP provider who is—

- (i) a partner in a partnership that—

- (aa) is a GMS practice; or

- (bb) has entered into a section 17C agreement; or

- (cc) is an HBPMS contractor and has entered into a contract for the provision of primary medical services; or

- (ii) a shareholder in a company limited by shares that is—

- (aa) a GMS practice; or

- (bb) a section 17C agreement provider; or

- (cc) an HBPMS contractor and has entered into a section 17C agreement for the provision of primary medical services; or

- (iii) an individual who is a GMS practice, section 17C agreement provider or an HBPMS contractor,

the Health Board with which that partnership, company, practice, provider or contractor has entered into a contract or agreement referred to in those provisions:

- (b) in the case of a principal practitioner, the Health Board on whose medical performers list their name appears; and
- (c) in the case of an assistant practitioner or locum practitioner, the Health Board engaging the practitioner under a contract of services or for services and on whose medical performers list their name appears;

“contracting-out requirements”	The requirements set out in sections 13 to 24 of the 1993 Act;
“core hours”	The period beginning at 0800 hours and ending at 1830 hours on any day apart from Saturday, Sunday, Christmas Day, New Year's Day and any other public or local holiday which has been agreed in writing by the Health Board when entering into a GMS contract;
“dental pilot scheme employee”	An individual who, in connection with the provision of personal dental services in accordance with a pilot scheme, is employed by an individual or body providing those services;
“dental therapist”	A person whose name is registered in the dental care professionals register established under section 36B of the Dentists Act 1984 M11 under the title of dental therapist;
“dependent child”	The meaning given by regulation H1;
“dispensing services”	The provision of drugs, medicines and such appliances which are included in the list prepared by the Scottish Ministers under section 27(1) of the 1978 Act;
“electronic communication”	has the meaning given in section 15 of the Electronic Communications Act 2000 M12 ;
“employing authority”	(a) a Health Board, Special Health Board or NHS National Services Scotland (established under section 2 and section 10 of the 1978 Act); (b) a person who is providing piloted services;

- (c) the Mental Welfare Commission established under section 4 of the Mental Health (Care and Treatment) (Scotland) Act 2003
M13
;
 - (d) an OOH provider;
 - (e) a GMS practice;
 - (f) a section 17C agreement provider;
 - (g) any other body constituted under an Act relating to health services and which the Scottish Ministers agree to treat as an employing authority for the purposes of this Section of the scheme; or
 - (h) as regards a person who is subject to a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967
M14
and subject to such modifications to these Regulations as the Scottish Ministers may in any particular case direct, any employer of such a person whom the Scottish Ministers agree to treat as an employing authority for the purposes of these Regulations.
- “enhanced services”
- (a) with regard to a GMS practice, the meaning given in [F11]regulation 3(1) of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018]; and
 - (b) with regard to any other performer or provider of primary medical services, services which, if provided by a GMS practice, would be enhanced services within the meaning given in [F11]regulation 3(1) of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018];
- “essential services”
- Services required to be provided in accordance with [F12]regulation 18 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018];

“ex-civil partner”	A former civil partner to whom pension credit rights under the Scheme have been or are to be allocated following a pension sharing order;
“ex-spouse”	A former spouse to whom pension credit rights under the Scheme have been or are to be allocated following a pension sharing order;
“final year's pensionable pay”	The meaning given in regulation C1;
“GMS contract”	A contract under section 17J of the 1978 Act M15 or under article 13 of the General Medical Services and Section 17C Agreements (Transitional and other Ancillary Provisions) (Scotland) Order 2004 M16 ;
“GMS practice”	(a) a registered medical practitioner who is a principal practitioner; (b) two or more such individuals practising in a partnership; or (c) a company limited by shares, with whom a Health Board has entered into a GMS contract;
“GP performer”	A registered medical practitioner, other than a GP registrar or a locum practitioner, whose name is included in a medical performers list and who performs essential services, additional services, enhanced services, dispensing services, collaborative services, commissioned services, OOH services or certification services, or a combination thereof— (a) under a GMS contract, section 17C agreement or an HBPMS contract; (b) on behalf of an OOH provider; or

- (c) under a contract of service or for services with a Health Board which relates to arrangements by which it is to provide services under section 2C of the 1978 Act
M17
;

“GP provider”

A GP performer who is—

- (a) a GMS practice, a section 17C agreement provider, an HBPMS contractor;
- (b) a partner in a partnership that is a GMS practice, a section 17C agreement provider or an HBPMS contractor;
or
- (c) a shareholder in a company limited by shares that is a GMS practice, section 17C agreement provider or an HBPMS contractor,

and who performs medical services as or on behalf of that practice, provider or contractor;

“GP Registrar”

means a medical practitioner who is being trained in general practice by a GP trainer, whether as part of training leading to a CCT or otherwise;

“guaranteed minimum pension”

Is to be construed in accordance with section 14 of the 1993 Act;

“health service”

The meaning given in section 108 of the 1978 Act;

“health service scheme”

The meaning given by regulation R7(1);

“HBPMS contract”

Arrangements for the provision of services in accordance with section 2C(2) of the 1978 Act between a Health Board and a HBPMS contractor;

“HBPMS contractor”

A person with whom a Health Board has made arrangements under section 2C(2) of the 1978 Act, but only if that person is also a person who would be eligible to enter into, a GMS contract or a section 17C agreement for the provision of primary

	medical services and has not entered into such a GMS contract or section 17C agreement;
“lifetime allowance”	Is to be construed in accordance with Part 4 of the 2004 Act (pension schemes etc.);
“local authority”	A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (constitution of councils) M18 ;
“locum practitioner”	A registered medical practitioner (other than a GP registrar) whose name is included in a medical performers list and who is engaged, otherwise than in pursuance of a commercial arrangement with an agent, under a contract for services by— <ul style="list-style-type: none"> (a) a GMS practice; (b) a section 17C agreement provider; (c) an HBPMS contractor; (d) an OOH provider; or (e) a Health Board, to deputise or assist temporarily in the provision of essential services, additional services, enhanced services, dispensing services, OOH services, commissioned services, certification services or collaborative services (or any combination of those services);
“lump sum death benefit rule”	The meaning given in section 168 of the 2004 Act;
“lump sum rule”	The meaning given in section 166 of the 2004 Act;
[^{F4} “marriage” and “married”	Do not include a reference to marriage of a same sex couple unless otherwise provided;]

“medical performers list”	A list prepared by a Health Board pursuant to regulation 4(1) of the National Health Service (Primary Medical Services Performers List) (Scotland) Regulations 2004 M19 ;
“member”	A person who has been included in this Section of the scheme and in respect of whom benefits under this Section of the scheme are, or will become, payable;
“member of the scheme”	A member of the Scheme and includes an active member, a deferred member and a pension credit member;
“mental health officer”	The meaning given in regulation R3(16);
“NHS dental employee”	An individual who, in the connection with the provision of dental health services in the health service, is employed by— (a) a Health Board; or (b) a registered dentist, including one who is providing personal dental services in accordance with a pilot scheme;
“NHS employee”	The meaning given in section 2(3) of the 1997 Act;
“NHS employment”	Employment with an employing authority;
“non GP provider”	(a) a partner in a partnership that is a GMS practice, who is not a GP provider and who demonstrates to the satisfaction of the Scottish Ministers that that partner assists in the provision of NHS services provided by that practice; (b) a partner in a partnership all of whose members have entered into a section 17C agreement for the provision of primary medical services, provided that the partner is not a GP provider and that the partner demonstrates to the satisfaction of the Scottish Ministers that that partner assists in the provision of NHS services provided by that partnership;

(c) a partner in a partnership that is an HBPMS contractor which has entered into an HBPMS contract for the provision of primary medical services, provided that the partner is not a GP provider, and that the partner demonstrates to the satisfaction of the Scottish Ministers that that partner assists in the provision of NHS services provided by that HBPMS contractor;

(d) a shareholder in a company limited by shares that is—

(i) a GMS practice;

(ii) a section 17C agreement provider; or

(iii) an HBPMS contractor,

provided that shareholder is not a GP provider, and that the shareholder demonstrates to the satisfaction of the Scottish Ministers that that shareholder assists in the provision of NHS services provided by that practice, provider or contractor; or

(e) an individual who is a section 17C agreement provider or an HBPMS contractor, provided that the individual is not a GP provider, and that the individual demonstrates to the satisfaction of the Scottish Ministers that that individual assists in the provision of NHS services provided by that practice or contractor;

“normal benefit age” Age 60;

“normal minimum pension age” The meaning given in section 279 of the 2004 Act;

“occupational pension scheme” An occupational pension scheme within the meaning of section 1 of the 1993 Act (categories of pension schemes) which—

(a) in the case of such a scheme established on, or after, 6th April 2006, is a registered pension scheme for the purposes of the 2004 Act and which the Scottish Ministers agree to recognise as a transferring scheme for the purposes of Parts M and N of these Regulations; and

- (b) in the case of such a scheme established before that date, was—
- (i) approved by the Commissioners for Her Majesty's Revenue and Customs
M20
for the purposes of Chapter I of Part XIV of the Taxes Act (retirement benefits schemes) or whose application for approval under that Chapter was under consideration;
 - (ii) a statutory scheme as defined in section 612(1) of the Taxes Act (interpretation); or
 - (iii) a scheme to which section 608 of the Taxes Act applied (superannuation funds approved before 6th April 1980);

and on 6th April 2006 became a registered pension scheme for the purposes of the 2004 Act;

“officer”	A person (other than a GP performer) employed by an employing authority;
“OOH provider”	Is to be construed in accordance with regulation A3;
“OOH services”	Services which are required to be provided in the out of hours period and which, if provided during core hours by a GMS practice, Section 17C agreement provider or an HBPMS contractor to patients to whom the practice or contractor is required by its contract or agreement to provide essential services, would be or would be similar to essential services;
“ophthalmic medical practitioner”	A medical practitioner providing general ophthalmic services under the National Health Service (Scotland) Act 1978;
“opting out”	Is to be construed in accordance with regulation B4;
“out of hours period”	(a) the period beginning at 1830 hours on any day from Monday to Thursday and ending at 0800 hours the following day;

- (b) the period between 1830 hours on Friday and 0800 hours the following Monday; and
- (c) Christmas Day, New Year's Day and any other public or local holiday which has been agreed in writing by the Health Board when entering into a GMS contract,

and part of an out of hours period means any part of any one or more of the periods described in sub-paragraphs (a) to (c);

[^{F13} “parental bereavement leave”	The meaning given in regulation 3 of the Parental Bereavement Leave Regulations 2020;]
“part-time service”	Service under a contract which provides for regular service of less than whole-time service;
[^{F14} “pay period”	In relation to members who receive either salary, wages or other regular payments under a contract of employment or a contract for services, the period in respect of which each payment is made in accordance with the terms of that contract;]
“pension credit”	The meaning given in regulation V3(b);
“pension credit benefit”	In relation to the Scheme the benefits payable under the Scheme to or in respect of a pension credit member by virtue of the pension credit member's appropriate rights under the Scheme attributable to a pension credit;
“pension credit member”	An individual who is a member of the Scheme, either, <ul style="list-style-type: none"> (i) solely for the provision of a pension credit benefit, or, (ii) for the wholly separate provision of a pension credit benefit, where benefits accrue or have accrued to that individual under the Scheme for any other reason;
“pension credit rights”	Rights to future benefits under the Scheme which are attributable to a pension credit;
“pension debit”	The meaning given in regulation V3(a);

“pension debit member”	A member, whether an active member, a deferred member or a pensioner member, whose shareable rights under the Scheme are subject to a pension debit;
“pension sharing order”	Any order which is mentioned in section 28(1) of the 1999 Act or Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 M21 ;
“pensionable employment”	NHS employment in respect of which the member contributes to this Section of the scheme;
“pensionable pay”	The meaning given in regulation C1;
“pensionable service”	The meaning given in regulation C2;
“personal dental services”	The meaning given in section 1(8) of the 1997 Act;
“personal pension scheme”	A personal pension scheme which— (a) in the case of such a scheme established on, or after, 6th April 2006 is a registered pension scheme for the purposes of the 2004 Act and which the Scottish Ministers agree to recognise as a transferring scheme for the purposes of Parts M and N of these Regulations; and (b) in the case of such a scheme established before that date, was— (i) approved by the Commissioners for Her Majesty's Revenue and Customs for the purposes of Chapter IV of Part XIV of the Taxes Act (personal pension schemes); and (ii) on the 6th April 2006 became a registered pension scheme for the purpose of the 2004 Act;
“practice staff”	A person (other than an assistant practitioner, principal practitioner, GP registrar or non GP provider) employed by a GMS practice, a

section 17C agreement provider, an HBPMS contractor or an OOH provider to assist in the provision of the services they provide;

- “practitioner”
- (a) a registered medical practitioner, other than a GP registrar, who is a locum practitioner, a GP provider or a GP performer;
 - (b) a registered dentist or a person treated as a practitioner under regulation R13,

but excluding a person who is paid wholly by way of salary by a Health Board or a person treated as an officer under regulation R13;

“preservation requirements” The requirements of Chapter I of Part IV of the 1993 Act relating to preservation of benefits under occupational pension schemes;

“primary medical services” Is to be construed in accordance with section 2C(5) of the 1978 Act
M22
;

“principal practitioner” The meaning given in paragraph 1 of Schedule 1;

“protected pension age” The pension age provided for in Part 3 of Schedule 36 to the 2004 Act for the purposes of that Part (which deals with pre-commencement benefit rights and the right to take benefit before normal minimum pension age) where the conditions specified in that Part are satisfied;

“Public Sector Transfer Arrangements” Arrangements applying to certain public sector and other schemes under which a common basis for transfer payments is applied by this Section of the scheme and those other participating schemes;

“qualifying service” The meaning given in regulation C3;

“quarter” A three month period ending on the last day of March, June, September or December;

“registered dentist” The meaning given in section 53(1) of the Dentists Act 1984
M23
;

[^{F4} “registered medical practitioner”	A fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983;]
“Regulatory Authority”	The meaning given in regulation V10(4);
“relevant daily proportion”	1/365th of the amount that would apply in respect of one year;
“remuneration”	For the purposes of Tables 1 and 2 of Schedule 3, as defined in regulation Q3(3) (paying for additional service by single payment) and Q4(6) (paying for unreduced retirement lump sum by single payment);
“Revenue and Customs”	The Commissioners for Her Majesty's Revenue and Customs;
“scheme”	Is to be construed in accordance with regulation A2(2)(b);
“scheme actuary”	The actuary appointed from time to time by the Scottish Ministers to provide a consulting service on actuarial matters relevant to these Regulations;
[^{F15} “scheme partner”	has the meaning given in G14(7)]
“scheme year”	A period of one year beginning on 1st April and ending on 31st March;
“section 9(2B) rights”	The same meaning as it has in the Occupational Pension Schemes (Contracting-out) Regulations 1996 M24 ;
“section 17C agreement”	An agreement made under section 17C of the 1978 Act M25 ;
“section 17C agreement provider”	Any person or body who is providing primary medical services in accordance with a section 17C agreement;
“self-employed pension arrangements”	A personal pension scheme within the meaning of Chapter IV of Part XIV of the Taxes Act which is approved by Revenue and Customs under that Chapter; but which is neither a personal

	pension scheme within the meaning of the 1993 Act nor a contract or a scheme approved under Chapter III of Part XIV of the Taxes Act;
“shareable rights”	The meaning given by section 27(2) of the 1999 Act and means any rights under a pension arrangement other than as described in section 2 of the Pension Sharing (Valuation) Regulations 2000 M26 ;
[^{F16} “shared parental leave”	the meaning given in regulation 3 of the Shared Parental Leave Regulations 2014;]
“special class officer”	A mental health officer or a person employed by an employing authority as a nurse, physiotherapist, midwife or health visitor to whom regulations R2 and R3 apply;
“specialist”	The expression means a consultant, other than a nurse consultant, or a senior hospital medical officer or senior hospital dental officer;
“state pension age”	In the case of a man, age 65; in the case of a woman, age 60;
[^{F15} “surviving scheme partner”	has the meaning given in the regulation G14(8);]
“tax year”	Any year beginning on 6th April and ending on 5th April the following year;
“Taxes Act”	The Income and Corporation Taxes Act 1988 M27 ;
“transfer day”	The meaning given in regulation W5(4);
“transfer values laws”	Chapter IV of Part IV of the 1993 Act;
“Waiting Period Joiner”	has the meaning given in regulation 2.L.1, or as the case may be, 3.L.1 of the 2008 Section.

“whole-time service” Service under a contract providing for service at standard hours, half-days or sessions for the grade;

[^{F4}“widow” and “widower” Do not include a reference to marriage of a same sex couple.]

Textual Amendments

- F1** Words in reg. A2(4) inserted (with effect in accordance with reg. 1(6) of the amending S.S.I.) by [The National Health Service Superannuation Scheme etc. \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/109\)](#), regs. 1(2), **3(a)** (with reg. 71)
- F2** Words in reg. A2(4) substituted (28.6.2014) by [The National Health Service Superannuation Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2014 \(S.S.I. 2014/154\)](#), regs. 1(2), **3**
- F3** Words in reg. A2(4) inserted (with effect in accordance with reg. 1(6) of the amending S.S.I.) by [The National Health Service Superannuation Scheme etc. \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/109\)](#), regs. 1(2), **3(b)** (with reg. 71)
- F4** Words in reg. A2(4) inserted (with effect in accordance with reg. 1(3) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/96\)](#), regs. 1(2), **3**
- F5** Words in reg. A2(4) substituted (1.4.2018) by [The National Health Service \(General Medical Services Contracts\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/66\)](#), reg. 1, **sch. 10 para. 6(2)(a)** (with reg. 2)
- F6** Words in reg. A2(4) inserted (with effect in accordance with reg. 1(6) of the amending S.S.I.) by [The National Health Service Superannuation Scheme etc. \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/109\)](#), regs. 1(2), **3(c)** (with reg. 71)
- F7** Words in reg. A2(4) inserted (13.3.2017) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/27\)](#), regs. 1(1), **3(a)** (with reg. 53)
- F8** Words in reg. A2(4) substituted (13.3.2017) by virtue of [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/27\)](#), regs. 1(1), **3(b)** (with reg. 53)
- F9** Words in reg. A2(4) substituted (1.4.2018) by [The National Health Service \(General Medical Services Contracts\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/66\)](#), reg. 1, **sch. 10 para. 6(2)(b)** (with reg. 2)
- F10** Words in reg. A2(4) inserted (with effect in accordance with reg. 1(2)(f) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/27\)](#), regs. 1(1), **3(c)** (with reg. 53)
- F11** Words in reg. A2(4) substituted (1.4.2018) by [The National Health Service \(General Medical Services Contracts\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/66\)](#), reg. 1, **sch. 10 para. 6(2)(c)** (with reg. 2)
- F12** Words in reg. A2(4) substituted (1.4.2018) by [The National Health Service \(General Medical Services Contracts\) \(Scotland\) Regulations 2018 \(S.S.I. 2018/66\)](#), reg. 1, **sch. 10 para. 6(2)(d)** (with reg. 2)
- F13** Words in reg. A2(4) inserted (6.4.2020) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations 2020 \(S.I. 2020/354\)](#), regs. 1, **22(2)**
- F14** Words in reg. A2(4) substituted (with effect in accordance with reg. 1(6) of the amending S.S.I.) by [The National Health Service Superannuation Scheme etc. \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/109\)](#), regs. 1(2), **3(d)** (with reg. 71)
- F15** Words in reg. A2 inserted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **3(2)**
- F16** Words in reg. A2(4) inserted (with effect in accordance with reg. 1(2)(b) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/27\)](#), regs. 1(1), **3(d)** (with reg. 53)

Marginal Citations

- M1** 1978 c.29.
- M2** S.I. 1980/1177 as amended by S.I. 1981/1680, 1983/272, 1988/1956, 1989/807 and 1749, 1990/382 and 1992/3046.
- M3** 1993 c.48.
- M4** 1995 c.26.
- M5** S.I. 1995/365 as amended by S.I. 1997/1434 and 1916, 1998/1593, 1999/443, 2001/3649, 2005/2011 and 2010/234 and S.S.I. 2001/437 and 465, 2003/55, 270 and 517, 2005/445, 512 and 544, 2006/307 and 561, 2008/92 and 226, 2009/19 and 208 and 2010/22 and 369.
- M6** 1997 c.46.
- M7** 1999 c.30.
- M8** 2004 c.12.
- M9** See also section 81 of that Act.
- M10** 1978 c.29. Section 15 was relevantly amended by the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), Schedule 1.
- M11** 1984 c.24.
- M12** 2000 c.7. Section 15 was amended by paragraph 158 of Schedule 17 to the [Communications Act 2003 \(c.21\)](#).
- M13** 2003 asp 13.
- M14** 1967 c.28.
- M15** Section 17J was inserted by the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), section 4.
- M16** S.S.I. 2004/163.
- M17** Section 2C was inserted by the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), section 1.
- M18** 1994 c.39. Section 2 was amended by the [Pensions Act 1995 \(c.25\)](#), Schedule 22.
- M19** S.S.I. 2004/114.
- M20** The functions of the Commissioners for Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs by the [Commissioners for Revenue and Customs Act 2005 \(c.11\)](#), section 5.
- M21** S.I. 1999/3147 (N.I. 11).
- M22** Section 2C was inserted by the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#).
- M23** 1984 c.24. Section 53(1) was amended by S.I. 1996/1496, 1997/1177 (N.I. 7), 1998/2840, 2005/2011, 2007/3101, 2009/1182, the [National Health Service \(Primary Care\) Act 1997 \(c.46\)](#), Schedule 2, paragraph 62 and the [National Health Service \(Consequential Provisions\) Act 2006 \(c.43\)](#), Schedule 1, paragraph 82.
- M24** S.I. 1996/1172. Regulation 1 was amended by S.I. 1998/786 and 3198, 2000/2975, 2005/2050 and 3377, 2006/744, 2007/60, 814, 1154 and 3014 and 2009/598 and 2930.
- M25** Section 17C was inserted by the [National Health Service \(Primary Care\) Act 1997 \(c.46\)](#), section 21(2).
- M26** S.I. 2000/1052.
- M27** 1988 c.1.

Approved Out of Hours providers

- A3.**—(1) For the purposes of these Regulations, an “OOH provider” is—
- (a) a company limited by guarantee (which is not otherwise an employing authority)—
- (i) in which all the members of the company are registered medical practitioners, HBPMS contractors, GMS practices or section 17C agreement providers and the majority of those members are—
- (aa) HBPMS contractors, GMS practices or section 17C agreement providers whose HBPMS contracts, GMS contracts or section 17C agreements require them to provide OOH services; or

- (bb) registered medical practitioners who are partners or shareholders in a HBPMS contractor, GMS practice or section 17C agreement provider which is a partnership or a company limited by shares and which is required to provide OOH services under its HBPMS contract, GMS contract or section 17C agreement;
- (ii) which has a contract with a Health Board, an HBPMS contractor, a GMS practice or a section 17C agreement provider for the provision of OOH services; and
- (iii) in respect of which a Health Board appointed by the Scottish Ministers to act on their behalf—
 - (aa) is satisfied that the provision of OOH services by the company is wholly or mainly a mutual trading activity;
 - (bb) is satisfied that the company has met all the conditions for being an OOH provider in this regulation; and
 - (cc) has, pursuant to a written application made by the company to it for that purpose, approved the company as an employing authority; or
- (b) some other body corporate (which is not otherwise an employing authority) which—
 - (i) operates in the interests of those who are the recipients of the primary medical services it provides or of the general public;
 - (ii) operates on a not for profit basis;
 - (iii) is not an associated company in relation to another person;
 - (iv) has a memorandum or articles or rules which—
 - (aa) prohibit the payment of dividends to its members;
 - (bb) require its profits (if any) or other income to be applied in promoting its objects; and
 - (cc) require all assets which would be otherwise available to its members generally to be transferred on its winding up either to another body which operates on a not for profit basis and whose purpose is to provide health or social care for the benefit of the community or to another body the objects of which are the promotion of charity and anything incidental or conducive thereof;
 - (v) has at least one member who is—
 - (aa) an HBPMS contractor, GMS practice or a section 17C agreement provider; or
 - (bb) a partner in a partnership which is an HBPMS contractor, GMS practice or a section 17C agreement provider; or
 - (cc) a shareholder in a company limited by shares that is a HBPMS contractor, GMS practice or a section 17C agreement provider;
 - (vi) has a contract with a Health Board, an HBPMS contractor, GMS practice or section 17C agreement provider, for the provisions of OOH services; and
 - (vii) is approved as an employing authority by a Health Board appointed by the Scottish Ministers to act on their behalf—
 - (aa) pursuant to a written application made by the body to it for that purpose; and
 - (bb) that Board being satisfied that the body has met all the conditions for being an OOH provider in this regulation.

(2) For the purposes of paragraph (1)(b)(iii), a body corporate is to be treated as another person's "associated company" if that person has control of it, except where that person is an employing authority, and for these purposes a person shall be taken to have control of a body corporate if they exercise, or are able to exercise, or are entitled to acquire direct or indirect control over its affairs.

(3) A company limited by guarantee or other body corporate which provides or is to provide OOH services and which wishes to be approved as an employing authority shall make a written application to a Health Board appointed by the Scottish Ministers to act on their behalf ("the appointed Board").

(4) An application referred to in paragraph (3) may specify a date from which approval by the appointed Board (if given) shall have effect ("the nominated date").

(5) Where, before 21st February 2006—

- (a) a company limited by guarantee or other body corporate made an application which contains a nominated date earlier than the date on which approval is subsequently given ("the approval date"); and
- (b) the appointed Board is satisfied that, throughout the period beginning with the nominated date and ending with the approval date, the company or other body corporate has satisfied the conditions for approval,

that approval shall be treated as having been given on the nominated date.

(6) Where before 21st February 2006—

- (a) a company limited by guarantee or other body corporate made an application which contains a nominated date later than the approval date; and
- (b) the appointed Board is satisfied that the company or other body corporate will satisfy the conditions for approval at that later date,

that approval shall take effect on the nominated date.

(7) Where, on or after 21st February 2006, a company limited by guarantee or other body corporate made an application and—

- (a) the appointed Board is satisfied that the company or other body corporate meets the conditions for approval or will do so at any nominated date which is later than the approval date; and
- (b) it approves that application,

that approval shall take effect on the later of the nominated date and approval date.

(8) Where—

- (a) paragraph (5) or (6) applies, the NHS employment shall be treated as commencing on the nominated date;
- (b) paragraph (7) applies, it shall be treated as commencing on the later of the nominated date (if any) and the approval date.

(9) For the purposes of this regulation—

- (a) the conditions for approval are those referred to in paragraph (1)(a) or (b) as the case may be; and
- (b) the nominated date cannot be earlier than 1st April 2004.

(10) The appointed Board may give an OOH provider a notice in writing terminating its participation in this Section of the scheme where that provider—

- (a) does not have in force a guarantee, indemnity or bond as required by the Scottish Ministers in accordance with regulation D2(10); or
- (b) has ceased to satisfy the conditions for approval; or

- (c) has notified or has an obligation to notify the Board that any one of the following events has occurred in respect of it—
- (i) a proposal for a voluntary arrangement has been made or approved under Part 1 of the Insolvency Act 1986 ^{M28} (“the 1986 Act”); or
 - (ii) an administration application has been made, or a notice of intention to appoint an administrator has been filed with the court, or an administrator has been appointed under Schedule B1 to the 1986 Act; or
 - (iii) a receiver, manager or administrative receiver has been appointed under Part III of the 1986 Act; or
 - (iv) a winding up petition has been presented, a winding up order has been made or a resolution for voluntary winding up has been passed under Part IV or Part V of the 1986 Act or an instrument of dissolution has been drawn up in accordance with section 58 of the Industrial and Provident Societies Act 1965 ^{M29}; or
 - (v) notice has been received by it that it may be struck off the register of companies, or an application to strike it off has been made, under Part 31 of the Companies Act 2006 ^{M30}.
- (11) An OOH provider—
- (a) must give the appointed Board notice in writing upon the occurrence of any of the events referred to in paragraph (10)(c) and must give such notice on the same day as that event;
 - (b) that wishes to cease to participate in this Section of the scheme must give the appointed Board and its employees not less than 3 months notice in writing (to commence with the date of the notice) of that fact.
- (12) An OOH provider ceases to participate in this Section of the scheme on—
- (a) such date as the appointed Board may specify in notice under paragraph (10); or
 - (b) the day upon which the period referred to in paragraph (11)(b) expires where a notice under that sub-paragraph (b) has been given.

Marginal Citations

M28 1986 c.45.

M29 1965 c.12. Section 58 was amended by S.I. 2001/2617 and 3649.

M30 2006 c.46.

[^{F17}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) 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, 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.]

Textual Amendments

- F17** Reg. A4 inserted (with effect in accordance with reg. 1(3) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/96\)](#), regs. 1(2), 4

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Scotland) Regulations 2011, PART A.