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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 117**

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

**PART B**

**MEMBERSHIP OF THE SCHEME**

**Opting into this Section of the scheme: mis-sold pensions**

**B6.**—(1) Subject to paragraph (3), this regulation applies to a person who, during any period—

- (a) was eligible to be an active member of this Section of the scheme;
- (b) opted out of this Section of the scheme under regulation B4(1) and made contributions to a personal pension scheme; and
- (c) has suffered loss as the result of a contravention which is actionable under section 62 of the Financial Services Act 1986(1) or section 150 of the Financial Services and Markets Act 2000(2).

(2) Where, at any time, a person to whom this regulation applies elects to rejoin this Section of the scheme under regulation B5, there must be, if the Scottish Ministers so determine, counted as pensionable service in respect of that person a period equal to the aggregate of—

- (a) that person's additional period of pensionable service as approved by the Scottish Ministers for the purposes of regulation N5(2)(a); and
- (b) that person's transferred out service, if any, within the meaning of regulation N5(5)

provided there has been paid to the Scottish Ministers in respect of that person a transfer payment calculated in accordance with regulation N5.

(3) Where, at any time, a person to whom this regulation applies elects to rejoin this Section of the scheme under regulation B5 but dies in pensionable employment or becomes entitled to benefits under Part E of these Regulations before the transfer payment referred to in paragraph (2) has been paid to the Scottish Ministers in respect of that person, paragraph (2) continues to apply in the case of that person.

(4) In this regulation—

“active member” means a person who is in pensionable service under the scheme; and

“personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 and includes—

- (a) a retirement annuity contract approved under Chapter III of Part XIV of the Taxes Act;
- (b) a personal pension scheme approved under Chapter IV of Part XIV of the Taxes Act;
- (c) a retirement benefits scheme approved under section 591(2)(g) of the Taxes Act;

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(1) 1986 c.60.

(2) 2000 c.8.

- (d) a scheme referred to in (a), (b) or (c) that obtained relevant approval under the Taxes Act before 6th April 2006 and on that date became a registered scheme for the purpose of the 2004 Act; and
- (e) a scheme established on, or after, 6th April 2006, as a registered 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.