

## SCHEDULE 1

Regulation R1

### MEDICAL AND DENTAL PRACTITIONERS

#### PART I

#### DEFINITIONS AND MODIFICATIONS

##### **Additional definitions used in this Schedule**

##### **1. In this Schedule—**

“assistant practitioner” means—

- (a) in the case of a registered medical practitioner—
  - (i) a GP performer who is not a GP provider but who is—
    - (aa) employed (whether under a contract of service or for services) by a GMS practice, a section 17C agreement provider, an HBPMS contractor, an OOH provider or a Health Board; and
    - (bb) in that employment engaged wholly or mainly in assisting that practitioner’s employer in the discharge of the employer’s duties as a GMS practice, a section 17C agreement provider, an HBPMS contractor, an OOH provider or a Health Board; or
  - (ii) a registered medical practitioner who is participating in a Doctors’ Retainer Scheme; and
- (b) in the case of a dental practitioner, a practitioner on a supplementary list employed by a principal practitioner, who in that employment is wholly or mainly engaged assisting that practitioner’s employer in the discharge of the employer’s duties as a registered dentist.

“Board and advisory work” means—

- (a) work undertaken as a member of the board of an employing authority which is not a GMS practice, a section 17C agreement provider, an HBPMS contractor or an OOH provider; or
- (b) advisory work commissioned by, and undertaken on behalf of, such an authority, where it is connected to the authority’s role in performing or securing the delivery of primary medical services or associated management activities or similar duties,

but which is not itself the performance of primary medical services and payment for which is made by the employing authority directly to the person carrying out that work.

“Common Services Agency” has the same meaning as in section 10 of the 1972 Act;

“officer service” means, subject to paragraph 11 (officer service treated as practitioner service), service as an officer;

“pensionable earnings” has the meaning given in paragraphs 5 to 10;

“practitioner income” has the meaning given in paragraph 5(2);

“practitioner service” means, subject to paragraph 11 (officer service treated as practitioner service), pensionable service as a medical, dental or ophthalmic medical practitioner;

“principal practitioner” means—

- (a) in the case of a registered medical practitioner, a GP provider; and

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- (b) in the case of a dental practitioner, a registered dentist who is included in a list prepared in accordance with the National Health Service (General Dental Services) (Scotland) Regulations 1996(1);

“Doctors’ Retainer Scheme” has the same meaning as given in section 39 of the Statement of Fees and Allowances Paid to General Medical Practitioners in Scotland prepared under regulation 35 of the National Health Service (General Medical Services) (Scotland) Regulations 1995(2);

“uprated earnings” is to be construed in accordance with paragraph 15(2).

### **Application of Regulations with modifications**

2.—(1) These Regulations, subject to the modifications described in this Schedule apply to members who are or have been practitioners as if they were officers employed by the relevant Health Board or, in the case of a locum practitioner, the listing Authority and, except where the context otherwise requires, references to an employing authority will, in relation to a practitioner, be taken as a reference to the relevant Health Board or, in the case of a locum practitioner, the listing Authority.

- (2) In sub-paragraph (1)—

“the listing Authority” in relation to a locum practitioner means the Health Board who prepare and publish—

- (a) the medical performers list; or  
(b) the services list under section 17EA or the supplementary list under section 24B of the 1978 Act(3),  
on which the locum practitioner is included.

(3) Notwithstanding any other provision of these Regulations, a practitioner who wishes to contribute to this Section of the scheme must do so in respect of all of the practitioner’s work as a practitioner.

(4) A practitioner who has given notice under regulation B4 to opt out of this Section of the scheme in respect of practitioner service may nonetheless be a member in respect of any service as an officer.

### **Membership: locum practitioners**

3.—(1) Regulation B1 does not apply to locum practitioners.

(2) A locum practitioner may apply to join this Section of the scheme by sending an application to the employing authority and submitting such evidence relating to the locum practitioner’s service as a locum practitioner and the contributions payable in respect of it as are required by the employing authority.

(3) On receiving such an application, such evidence and such contributions, the employing authority must submit the application to the Scottish Ministers.

(4) No application may be made under paragraph (2) in respect of a period of engagement as a locum practitioner ending earlier than ten weeks before the date of the application.

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(1) S.I. 1996/177, amended by S.I. 1998/1663 and 1999/724 and S.S.I. 1999/51, 2000/188, 2004/37 and 2005/95.

(2) S.I. 1995/416; copies of the Statement of Fees and Allowances Paid to General Medical Practitioners in Scotland can be obtained on request from the Scottish Office Department of Health, St Andrew’s House, Edinburgh.

(3) Section 17EA was inserted by section 18(1) of the Community Care and Health (Scotland) Act 2002 (asp 5) and section 24B was inserted by section 18(2) of that Act.

**Modifications of provisions having effect from 1st April 2001 (locum practitioners)  
(retrospective effect when admitted to supplementary lists)**

4.—(1) For the purposes of these Regulations, a person is treated as having been a locum practitioner at any particular time during the period beginning with 1st April 2001 and ending with 30th August 2003 (both dates inclusive) if—

- (a) at that particular time, apart from the condition in paragraph (b) of the definition of “locum practitioner”, the person would have fallen or falls within that definition, and
- (b) the person meets that condition not later than 31st August 2003.

(2) For the purposes of these Regulations, a person is also treated as having been a locum practitioner at any particular time during the period beginning with 1st April 2001 and ending with 30th August 2003 (both dates inclusive) if—

- (a) at that particular time, apart from the condition in paragraph (b) of the definition of “locum practitioner”, the person would have fallen or falls within that definition, and
- (b) the person—
  - (i) became a principal practitioner, an associate general practitioner, an assistant practitioner or a person who is treated as a practitioner under regulation R13 of the 1995 Regulations (participants in pilot schemes) after that particular time and not later than 31st August 2003;
  - (ii) became a medical pilot scheme employee treated as an officer under regulation R13 of the 1995 Regulations after that particular time and not later than 31st August 2003; or
  - (iii) became a registered medical practitioner who is an officer after that particular time and not later than 31st August 2003.

## PART II

### PENSIONABLE EARNINGS

**Meaning of “pensionable earnings”**

5.—(1) In the case of a principal practitioner and a non GP provider who is not in receipt of a salary, wages or fees or any regular payments in respect of their employment as an officer “pensionable earnings” means practitioner income less—

- (a) any sum on account of practice expenses; and
- (b) in the case of a dental practitioner the pensionable earnings, to the extent allowed by the Scottish Ministers, of any assistant practitioner in the practitioner’s employment or in the case of an assistant practitioner who is not in pensionable employment under this Section of the scheme, the amount that would have been taken to be that practitioner’s pensionable earnings if the practitioner was in such pensionable employment.

(2) Subject to sub-paragraph (3), for the purposes of this paragraph, “practitioner income” means—

- (a) income which accrues to the practitioner or the non GP provider which is derived from—
  - (i) a GMS contract;
  - (ii) a section 17C agreement;
  - (iii) an HBPMS contract;

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- (iv) payments from, or to, a practitioner who is a GMS practice, a section 17C agreement provider or an HBPMS contractor in respect of the performance of certification services, commissioned services or collaborative services;
  - (v) the practitioner's or the non GP provider's engagement by a Health Board to assist in the provision of primary medical services under section 2C(2) of the 1978 Act<sup>(4)</sup>;
  - (vi) in the case of a practitioner, the provision of locum services;
  - (vii) payments made to a principal practitioner by an OOH provider or other employing authority providing OOH services in respect of the performance of primary medical services, commissioned services, collaborative services and certification services;
  - (viii) payments made to a principal practitioner by an employing authority in respect of general dental services, general ophthalmic services or pharmaceutical services provided by the practitioner; or
  - (ix) practice based work carried out in educating or training, or organising the education or training, of medical students or practitioners;
- (b) any charges made to a patient in respect of the services mentioned in paragraph (a) above which the practitioner is authorised by or under any enactment to retain, other than charges authorised by regulations made under section 73(b) of the National Health Service (Scotland) Act 1978<sup>(5)</sup> (charges for more expensive supplies of dental appliances),
  - (c) any sums paid to the practitioner out of a fund determined by reference to the number of beds in a hospital; and
  - (d) in the case of a practitioner, allowances and any other sums (but excluding payment made to cover expenses) paid in respect of Board and advisory work.

(3) If the practitioner is in concurrent employment as an officer, or with a local authority or university, or as a civil servant, or in any other employment that the Scottish Ministers may in any particular case allow, "practitioner income" does not include any amounts for which the practitioner is required to account to the employer as a term or condition of that employment.

(4) In sub-paragraph (2)(a), "locum services" has the same meaning as for the purposes of paragraph 8.

### **Calculating "pensionable earnings" of practitioners in partnership**

6.—(1) In the case of practitioners practising in partnership (with or without a non GP provider who is a partner in the partnership), the pensionable earnings of each principal practitioner and non GP provider who is a partner in a partnership will be calculated by aggregating the pensionable earnings of each (including for this purpose, any amount that would constitute pensionable earnings in the case of any to them who are not included in this Section of the scheme) and, subject to sub-paragraph (2), dividing the total equally by reference to the number of such partners.

(2) Where the principal practitioners and any non GP providers who are partners in a partnership do not share equally in the partnership profits, they may elect that each partner's pensionable earnings will correspond to each partner's share of the partnership profits.

(3) Where a registered medical practitioner practising in partnership also has earnings in respect of NHS employment otherwise than as a practitioner, the partners may elect that the pensionable earnings of that practitioner, as determined in accordance with sub-paragraph (1) or (2), will be reduced by the amount of those earnings and the pensionable earnings of each of them (including that practitioner) will then be increased in proportion to their shares in the partnership profits.

(4) Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 1(2).

(5) 1978 c.29; section 73(b) was amended by the Health and Social Security Act 1984 (c.48), Schedule 8.

(4) The calculations described in sub-paragraphs (2) and (3) will be made by the Health Board to which the partners are required to give notice of their election in accordance with paragraph 5.

### **Election relating to calculation of “pensionable earnings” in partnerships**

7.—(1) Practitioners and any non GP providers who are partners in partnership must exercise the election described in paragraph 6 by giving notice in writing to their Contracting Health Board.

(2) Dental practitioners must give such notice to the Health Board by which they wish the necessary action to be taken.

(3) The notice must be signed by all the principal practitioners and non GP providers in the partnership and must state as a fraction each practitioner’s and non GP provider’s share in the partnership profits.

(4) In the case of medical practitioners, the notice must state the name of every Health Board on whose list the name of any practitioner in the partnership is included.

(5) If medical practitioners wish account to be taken of remuneration received in respect of concurrent employment as officers, the notice must—

- (a) state, in respect of every practitioner in the partnership who is so employed, the name of the employing authority and the pensionable pay received in respect of that employment; and
- (b) include an undertaking by the practitioners to give notice in writing to the Health Board concerned at the end of each financial year, stating the pensionable pay received in that year in respect of employment as an officer by each practitioner in the partnership who is so employed.

(6) Any notice given under this paragraph will take effect from the date agreed between the practitioners and the Health Board concerned, and if no agreement is reached, the date will be decided by the Scottish Ministers.

(7) Any notice given under this paragraph—

- (a) may be cancelled or amended by a subsequent notice in writing signed by all practitioners in the partnership; and
- (b) will continue in effect until cancelled or, if earlier, there is a change in the partnership.

(8) Where a practitioner has opted out of this Section of the scheme under regulation B4 the pensionable earnings calculated as in paragraph 6 above will not be treated as pensionable earnings for the purpose of providing any benefits under these Regulations.

(9) Where medical practitioners gave notice under proviso (b)(iii) of regulation 61(2) of the National Health Service (Superannuation) (Scotland) Regulations 1961<sup>(6)</sup> that they wished that paragraph of the proviso to apply in their case, then so long as the notice remains effective they will be treated for the purposes of paragraph 6 above as if they were not in partnership.

### **Meaning of “pensionable earnings” in relation to other practitioners**

8.—(1) In the case of an assistant practitioner, “pensionable earnings” means—

- (a) all salary, wages, fees and other regular payments paid to the practitioner by an employing authority in respect of the performance of essential services, additional services, enhanced services, dispensing services, OOH services, commissioned services, certification services, collaborative services, general dental services or pharmaceutical services but does not include bonuses or payments made to cover expenses or for overtime;
- (b) allowances and any other sums (but excluding payment made to cover expenses) paid by an employing authority in respect of Board and advisory work; and

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(6) [S.I. 1961/1398](#) as variously amended.

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(c) practice based work carried out in educating or training, or organising the education or training of, medical students or practitioners.

(2) “Pensionable earnings” as described in sub-paragraph (1) do not include payments for overtime or any allowances paid to cover the cost of providing office or laboratory accommodation or clerical or other assistance, or any travelling or subsistence allowance or other payments to be spent, or to cover expenses incurred, for the purposes of the practitioner’s employment and do not include any of the payments referred to in sub-paragraph (1) unless approved for that purpose by the Scottish Ministers.

(3) In the case of—

(a) a dental practitioner providing piloted services, “pensionable earnings” means all fees and other regular payments paid to the dental practitioner in respect of the provision of piloted services, but does not include bonuses or payments made to cover expenses or for overtime;

(b) a practitioner employed as a dental pilot scheme employee or to whom regulation R13(1) (c) applies, “pensionable earnings” means all salary or wages paid to the practitioner in respect of employment as a practitioner, or all remuneration paid to the practitioner under a contract for services, but does not include bonuses or payments made to cover expenses or for overtime.

(4) In the case of a locum practitioner, “pensionable earnings” means all fees and other payments paid to the locum practitioner in respect of the provision of locum services (but excluding payments made to cover expenses or for overtime), less such expenses as are deductible in accordance with guidance laid down by the Scottish Ministers.

(5) In this paragraph, references to the provision of locum services, in relation to a practitioner, are to primary medical services, commissioned services, collaborative services or pharmaceutical services performed by a practitioner engaged by an employing authority under a contract for services to deputise for a registered medical practitioner or to temporarily assist in the provision of such services.

### **Exclusions and deductions from pensionable earnings — all practitioners**

9. Any sum that is withheld or otherwise recovered from a practitioner under the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(7) shall be excluded or deducted from the practitioner’s pensionable earnings in such manner and to such extent as the Scottish Ministers may approve.

### **Limit on pensionable earnings — dental practitioners**

10.—(1) A dental practitioner’s pensionable earnings in any financial year ending before 1st April 1995 are subject to the upper limit specified in the following table for the period in which the year falls:—

<i>Period</i>	<i>Upper limit for each year</i>
1st April 1950 to 31st March 1966	£3,500
1st April 1966 to 31st March 1972	£6,000
1st April 1972 to 31st March 1975	£10,000
1st April 1975 to 31st March 1978	£15,000
1st April 1978 to 31st March 1982	£21,000

(7) [S.I. 1992/434](#).

<i>Period</i>	<i>Upper limit for each year</i>
1st April 1982 to 31st March 1985	£33,000
1st April 1985 to 31st March 1988	£40,000
1st April 1988 to 31st March 1989	£45,000
1st April 1989 to 31st March 1990	£54,000
1st April 1990 to 31st March 1991	£58,000
1st April 1991 to 31st March 1992	£65,000
1st April 1992 to 31st March 1993	£72,000
1st April 1993 to 31st March 1994	£73,000
1st April 1994 to 31st March 1995	£75,000

(2) A dental practitioner's pensionable earnings in any financial year starting after 31st March 1995 and ending before 1st April 2008 are subject to the upper limit specified for that year by the Scottish Ministers.

(3) In the case of a dental practitioner employed by persons carrying on a deceased practitioner's dentistry business, pensionable earnings cannot exceed the total of the amount paid to the dental practitioner by those persons, plus any amounts paid to him by a Health Board that those persons allow the dental practitioner to retain.

### PART III

#### OFFICER SERVICE TREATED AS PRACTITIONER SERVICE

##### **Officer service treated as practitioner service**

**11.**—(1) Subject to sub-paragraph (3), if a member does not have more than 10 years' officer service on first becoming a practitioner, the member's officer service before first becoming a practitioner will be treated as practitioner service.

(2) For the purpose of calculating any benefit in respect of officer service that is treated as practitioner service under sub-paragraph (1), the member's pensionable pay in respect of that officer service—

- (a) may be disregarded and the member's uprated earnings increased by the same proportion as the member's practitioner's service is increased by virtue of the officer service being treated as practitioner service under sub-paragraph (1); or
- (b) may be treated as pensionable earnings,

whichever is more favourable to the member.

(3) Sub-paragraph (1) does not apply where—

- (a) the member first became a practitioner before 31st March 1977 and the benefits calculated under the corresponding provision as it applied immediately before that date would have been greater; or
- (b) the member's pension in respect of total officer service would otherwise be greater than the member's pension in respect of total practitioner service (where "pension" includes,

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in each case, any increases payable under Part I of the Pensions (Increase) Act 1971<sup>(8)</sup> and the member's total pension would be reduced if the member's officer service before first becoming a practitioner were treated as practitioner service.

- (4) The calculation described in sub-paragraph (3)(b) will be made
- (a) when the member's pension under this Section of the scheme becomes payable; or
  - (b) where the member dies before the member's pension becomes payable, at the date of the member's death by reference to the pension which would have become payable under regulation E1 (normal retirement pension) or E12 (preserved pension) if the member had left pensionable employment immediately before that date.

(5) When calculating the member's total officer service and total practitioner service for the purposes of sub-paragraph (3)(b), any increase in the member's pensionable service by virtue of regulation E2 or E3, and any additional service bought as described in regulation Q1 (right to buy additional service), will be ignored.

(6) Where a member has more than 10 years' officer service before first becoming a practitioner, the member's officer service before first becoming a principal practitioner or a practitioner providing piloted services may be treated as practitioner service if it would be more favourable to the member.

(7) For the purposes of calculating any benefits in respect of officer service that is treated as practitioner service under sub-paragraph (6), the member's pensionable pay in respect of that officer service shall be treated as pensionable earnings.

- (8) 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 (6) (“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 N3 or N4 (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 27 of this Schedule.

(9) Subject to sub-paragraph (13), if a member has, in total, less than one year's officer service on the last occasion when the member ceases to be a practitioner before the member's pension under this Section of the scheme becomes payable, that officer service will be treated as practitioner service.

(10) Subject to sub-paragraph (13), if a member has in total 1 year's officer service or more on the last occasion on which the member ceases to be a practitioner before the member's pension under this Section of the scheme becomes payable that officer service may be treated as practitioner service if it would be more favourable to the member.

(11) Any officer service which is treated as practitioner service by virtue of sub-paragraph (9) or (10) is to include any periods of officer service which are concurrent with periods of practitioner service.

(12) For the purpose of calculating any benefit in respect of officer service that is treated as practitioner service under sub-paragraph (9) or (10), the member's pensionable pay in respect of that officer service will be treated as pensionable earnings.

(13) If the member has officer service before first becoming a practitioner or a practitioner providing piloted services under an agreement between that practitioner and a Health Board or Primary Care NHS Trust, sub-paragraph (1) or (6) will be applied before sub-paragraphs (9) and (10) and—

- (a) sub-paragraphs (9) and (10) will not apply to any officer service that is treated as practitioner service under sub-paragraph (1) or (6); and

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<sup>(8)</sup> 1971 c.56.



(b) any officer service that is treated as practitioner service under sub-paragraph (1) or (6) will be ignored for the purpose of deciding whether sub-paragraph (9) or (10) applies.

(14) If any member with practitioner service works in employment as an officer for less than 1 year after last ceasing to be a practitioner, any officer service that is attributable to that employment will be treated as practitioner service.

(15) For the purposes of calculating any benefit in respect of officer service that is treated as practitioner service under sub-paragraph (14), the member's pensionable pay in respect of that officer service will be treated as pensionable earnings.

(16) Where the officer service mentioned in sub-paragraph (9), (10) or (14) has been credited as a result of a transfer under regulation N1 (member's right to transfer accrued rights to benefits to this Section of the scheme), the pensionable pay in respect of it shall be deemed to be the pensionable pay by reference to which the additional period of service was calculated under regulation N3(3) or N4(2), whichever is applicable.

### **Locum practitioners: breaks between contracts**

**12.**—(1) Paragraph (5) of regulation C3 does not apply to a locum practitioner and instead sub-paragraph (2) below applies where a locum practitioner ceases to be engaged as such a practitioner and is re-engaged as such a practitioner before the expiry of a period not exceeding three months from the day on which the practitioner so ceases.

(2) For the purposes of these Regulations—

- (a) a locum practitioner is treated as continuing to be in qualifying service during the period not exceeding three months whilst the locum practitioner is not so engaged and as not being required to rejoin this Section of the scheme at the time when the locum practitioner becomes re-engaged in pensionable service, but
- (b) that period does not count as practitioner service or as a period in pensionable employment.

### **Practitioners with benefits from both practitioner and officer service**

**13.**—(1) A member—

- (a) who has at least two years' qualifying service or in respect of whom a transfer payment has been made to this Section of the scheme in respect of the member's rights under a personal pension scheme;
- (b) who ceases to be in officer service while continuing in practitioner service; and
- (c) whose officer service is not treated as practitioner service under paragraph 11(6) or (10),

is entitled to receive a separate pension in respect of the member's officer service.

(2) A member—

- (a) who has at least two years qualifying service or in respect of whom a transfer payment has been made to this Section of the scheme in respect of the member's rights under a personal pension scheme; and
- (b) who ceases to be in practitioner service while continuing in officer service,

is entitled to receive a separate pension and retirement lump sum in respect of such of the member's pensionable service as is specified in sub-paragraph (3).

(3) The pensionable service specified for the purposes of sub-paragraph (2) is—

- (a) any practitioner service; and
- (b) any officer service which falls to be treated as practitioner service under paragraph 11.

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(4) Subject to sub-paragraph (5), the amount of any pension or retirement lump sum which a member is entitled to receive under sub-paragraph (1) or (2) is the same as the amount of the pension or retirement lump sum which the member would have been entitled to receive under these Regulations if the member had left pensionable employment on the day on which the member ceased to be in officer service or, as the case may be, ceased to be in practitioner service.

(5) A member who is entitled to a pension and retirement lump sum under sub-paragraph (2) will, if it would be more favourable to the member, be treated as having continued in practitioner service until the last day of the member's pensionable employment.

(6) Where—

- (a) a member who, before commencing the member's 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
- (b) be effective immediately before the pension and lump sum become payable under these Regulations.

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

- (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.

## PART IV

### CONTRIBUTIONS TO THE SCHEME

#### **Contributions to this Section of the scheme**

**14.**—(1) In the case of members who are practitioners or non-GP providers, regulation D1 (contributions by members) and regulation D2 (contributions by employing authorities) are modified as described in the following sub-paragraphs.

(2) For the purposes of this paragraph, "the relevant table" means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2.

Table 1

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

(3) Subject to sub-paragraph (4), a member whose pensionable earnings fall into a pensionable earnings band specified in column 1 of the relevant table must contribute the percentage of the member's pensionable earnings specified in column 2 of that table in respect of that amount.

(4) The Scottish Ministers must, with the consent of the Treasury, determine the pensionable earnings bands and contribution rates specified in the relevant table in respect of each scheme year.

(5) Before determining those pensionable earnings bands or contribution rates, the Scottish Ministers must consider—

- (a) the advice of the scheme actuary; and
- (b) in accordance with regulation U4, advice from such employee and employer representatives as the Scottish Ministers consider appropriate.

(6) If, apart from this sub-paragraph, the earnings for a scheme year in respect of a member's practitioner or non-GP provider service would not be a whole number of pounds, those earnings will be rounded down to the nearest whole pound.

(7) If a member is a practitioner or non-GP provider as well as (concurrently) employed other than as a practitioner or non-GP provider in respect of which the member is liable to pay contributions in accordance with regulation D1, the contributions payable in respect of the member's—

- (a) practitioner or non-GP provider service, shall be determined in accordance with the provisions of these regulations that apply to a practitioner or non-GP provider; and
- (b) employment as an officer, will be determined in accordance with the provisions of these Regulations that apply to an officer.

(8) In determining the contributions payable in accordance with paragraph (3), the Contracting Health Board, employing authority or someone appointed on its behalf, must take account of pensionable earnings as a practitioner or as a non-GP provider from all practitioner or non-GP provider sources.

(9) If, in respect of a scheme year, a practitioner (other than a dentist) or a non-GP provider has—

- (a) certified their pensionable earnings in accordance with paragraph 31 of this Schedule and forwarded a record of those earnings to the Contracting Health Board or someone appointed on its behalf; or

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(b) was not required to certify their earnings in accordance with that paragraph but the Contracting Health Board or someone appointed on its behalf, has the figure that represents the practitioner's or non-GP provider's pensionable earnings for that scheme year, contributions payable for that scheme year, shall be those specified in column 2 of the relevant table in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to the aggregate of—

- (i) certified or final pensionable earnings from all practitioner or non-GP provider sources; and
- (ii) any additional pensionable earnings the practitioner or non-GP provider is treated as having received during an absence from work in accordance with regulation P1 or P2 and the modifications described in paragraph 26 of this Schedule.

(10) Subject to sub-paragraph (11), if sub-paragraph (9) does not apply to a practitioner or to a non-GP provider in respect of a scheme year, that practitioner or non-GP provider shall pay contributions at the rate in column 2 of the relevant table, which—

- (a) has been agreed between the Contracting Health Board or someone appointed on its behalf, in the case of an assistant practitioner or salaried GP their employer, on the one hand and the practitioner or non-GP provider on the other hand;
- (b) corresponds to the practitioner's or non-GP provider's most recent certified or final pensionable earnings referred to in sub-paragraph (11); or
- (c) corresponds to the Contracting Health Board or someone appointed on its behalf, or estimate of the practitioner's or non-GP provider's pensionable earnings from all practitioner or non-GP provider sources for that year.

(11) If sub-paragraph (10) applies to a practitioner or to a non-GP provider in respect of a scheme year and either sub-paragraph (9)(a) or (b) is subsequently satisfied in respect of that scheme year, that practitioner or non-GP provider shall pay contributions at the rate determined in accordance with sub-paragraph (9).

(12) A Contracting Health Board or someone appointed on its behalf, or in the case of an assistant practitioner or salaried GP the employing authority, may adjust a practitioner's or a non-GP provider's contribution rate for any scheme year determined in accordance with sub-paragraph (10)

- (a) by agreement between the Contracting Health Board or someone appointed on its behalf, or in the case of an assistant practitioner or salaried GP the employing authority, on the one hand and the practitioner or non-GP provider on the other hand; or
- (b) without such agreement, if the Contracting Health Board, or person acting on their behalf, or in the case of an assistant practitioner, the employing authority is satisfied that pensionable earnings will exceed the amount used to determine the contribution rate in accordance with those paragraphs.

(13) If a principal practitioner provides services as a locum practitioner to a health board other than the Contracting Health Board, or other employer—

- (a) that health board or other employer must apply member contribution of 6.5%; and
- (b) the Contracting Health Board or someone appointed to act on its behalf must apply the correct member contribution rate in terms of sub-paragraph (9) or (10) whichever is appropriate once in receipt of certified earnings for this Section of the scheme year from the member.

(14) Contributions must be paid until the member—

- (a) reaches age 75 or completes 45 years' pensionable service, if the member is not a special class officer;

(b) reaches age 65, or completes 45 years' pensionable service and reaches age 60, if the member is a special class officer.

(15) Save where sub-paragraph (16) applies, practitioners and non-GP providers will pay contributions payable under regulation D1 to the contracting Health Board or someone appointed to act on their behalf, and dental practitioners will pay such contributions to the Common Services Agency.

(16) Where a principal practitioner or a non-GP provider 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 will—

(a) deduct contributions payable under regulation D1 from any pensionable earnings it pays to the member; 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.

(17) Subject to sub-paragraph (18), where a principal practitioner or a non-GP provider is—

(a) an employing authority which is a GMS practice, a section 17C agreement provider or an HBPMS contractor; or

(b) a shareholder or partner in such an employing authority,

that employing authority will pay contributions payable under regulation D2(1) to the contracting Health Board, or someone appointed on their behalf.

(18) Where the principal practitioner or non-GP provider is a shareholder or partner in more than one employing authority referred to in sub-paragraph (17), each such employing authority will pay contributions payable under regulation D2(1) on any pensionable earnings it pays to the practitioner or non-GP provider or, as the case may be, on the practitioner's or non-GP provider's share of the partnership profits, to the contracting Health Board, or someone appointed to act on their behalf.

(19) Where sub-paragraph (16) applies (but sub-paragraph (17) does not) and the employing authority referred to in that sub-paragraph is—

(a) not the contracting Health Board, that authority will pay contributions payable under regulation D2(1) to that Board;

(b) the contracting Health Board, that Board will pay contributions payable under regulation D2(1) to the Scottish Ministers in respect of any pensionable earnings it pays to the practitioner or non-GP provider.

(20) 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 will—

(a) deduct contributions payable under regulation D1 from any pensionable earnings it pays to the assistant practitioner; and

(b) where it is not also the contracting Health Board, pay those contributions to that Board, or someone appointed to act on their behalf.

(21) Where paragraph (20) applies, and the employing authority referred to in that sub-paragraph—

(a) is not the contracting Health Board, that authority will pay contributions payable under regulation D2(1) to the Board or to someone appointed to act on their behalf;

(b) is the contracting Health Board, that Board will pay contributions payable under regulations D1 and D2(1) to the Scottish Ministers in respect of any pensionable earnings it pays to such a practitioner.

(22) Locum practitioners must pay contributions payable under regulations D1 to the contracting Health Board, or someone appointed to act on their behalf.

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(23) Where a locum practitioner is liable to pay contributions under sub-paragraph (22) 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 will pay contributions payable under regulation D2(1) to the contracting Health Board, or someone appointed to act on their behalf.

(24) Where contributions are payable by a locum practitioner under sub-paragraph (22) in respect of pensionable locum work carried out for an employing authority which is—

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

the contracting Health Board will pay contributions payable under regulation D2(1) in respect of such a practitioner.

(25) Contributions which are required to be paid to the contracting Health Board in accordance with this paragraph will be paid to that Board not later than the 7th day of the month following the month in which the earnings were paid.

(26) Where an employing authority—

- (a) is not the contracting Health Board, it will be a function of that employing authority to provide that Board or someone appointed to act on their behalf, with a record of any—
  - (i) pensionable earnings paid by it to a practitioner; and
  - (ii) contributions deducted by it in accordance with sub-paragraph (16) or (20), not later than the 7th day of the month following the month in which the earnings were paid; and
- (b) is the contracting Health Board, or someone appointed on their behalf, that has deducted contributions in accordance with sub-paragraph (16) or (20) and is liable to pay contributions under regulation D2(1) in respect of any pensionable earnings it pays to a practitioner, it will be a function of that Board to maintain a record of—
  - (i) the matters referred to in 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.

(27) It will be a function of the contracting Health Board, or someone appointed to act on their 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) which it is liable to pay by virtue of sub-paragraphs (19)(b) and (21)(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.

(28) Without prejudice to any other method of recovery, where in respect of contributions payable under regulation D1—

- (a) a principal practitioner, assistant practitioner, locum practitioner or non-GP provider 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 where—

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

(29) For the purposes of this paragraph—

- (a) “contributions payable under regulation D1” means contributions payable under regulation D1 by a practitioner or, as the case may be, a non-GP provider under this Section of the scheme;
- (b) “contributions payable under regulation D2(1)” means contributions payable under regulation D2(1) by an employing authority in respect of a practitioner or, as the case may be, a non-GP provider.

## PART V

### BENEFITS FOR MEMBERS

#### **Pensions for members — normal retirement pension**

**15.**—(1) In the case of members who are or have been practitioners, regulation E1 (normal retirement pension) is modified so that the yearly rate of a member's pension—

- (a) in respect of officer service, will be equal to 1/80th of final year's pensionable pay for each complete year of service, plus the relevant daily proportion for each additional day (as described in that regulation); and
- (b) in respect of practitioner service will be equal to 1.4 per cent of the member's uprated earnings.

(2) In respect of—

- (a) any scheme year prior to the 2008-2009 scheme year, the member's uprated earnings are to be calculated in the manner determined by the Scottish Ministers having consulted such professional organisations as the Scottish Ministers consider appropriate; and
- (b) the 2008-2009 scheme year and any later scheme year the member's uprated earnings are to be calculated by uprating the member's pensionable earnings by the amount of the annual increase due under the provisions of the Pensions (Increase) Act 1971(9) and Section 59 of the Social Security Pensions Act 1975, plus 1.5% annually.

(3) Nothing in this paragraph will be taken to require the Scottish Ministers to revisit the calculation of uprated earnings referred to in sub-paragraph (2)(a).

#### **Early retirement pension — ill health**

**16.**—(1) In the case of members who are or have been practitioners, regulation E2 and E3 are modified so that, if the member satisfies the requirements for a pension based on pensionable service that is increased under any of paragraphs (5) to (7) of regulation E2 or regulation E3(4) to (6)—

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(9) 1971 c.56.

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- (a) the member's total pensionable service will be increased as described in whichever of those paragraphs applies;
- (b) the length of the member's officer service and practitioner service will each be increased by the proportion by which the member's total pensionable service is increased; and
- (c) for the purpose of calculating the member's pension in respect of practitioner service, the member's uprated earnings will then be increased by the same proportion as the member's practitioner service is increased by under paragraph (b) above.

(2) For the purposes of sub-paragraph (1), "total pensionable service" includes both officer service and practitioner service but does not include any period of additional service that the member buys under regulation Q1 (right to buy additional service).

(3) Regulation E3 is modified so that the definition of "regular employment of like duration" in paragraph (18) of that regulation means such employment as the Scottish Ministers consider would involve a similar level of engagement in the member's current pensionable service as a practitioner.

#### **Lump sum on member's death in pensionable employment or after pension becomes payable**

17.—(1) In the case of members who die in pensionable employment as practitioners, regulation F1 (lump sum payable on member's death in pensionable employment) is modified so that, in relation to the member's employment as a practitioner, the reference to final year's pensionable pay in regulation F1(4) is treated as a reference to—

- (a) in the case of a member who is required to pay contributions under regulation D1(27), the yearly average of the member's uprated earnings at the date of death; or
- (b) in the case of a member who is no longer required to pay contributions under regulation D1(27), the yearly average of the member's uprated earnings on the member's last day of pensionable service.

(2) In the case of members who die after a pension under this Section of the scheme in respect of practitioner service becomes payable, regulation 2 (lump sum payable on member's death after pension becomes available) is modified so that, in relation to the member's employment as a practitioner, the reference to final year's pensionable pay in regulation F2(2) is treated as a reference to the yearly average of the member's uprated earnings on the member's last day of pensionable service.

## **PART VI**

### **BENEFITS FOR DEPENDANTS**

#### **Widow's, widower's, surviving civil partner's or surviving nominated partner's pension on member's death in pensionable employment**

18. In the case of members who die in pensionable employment as practitioners, regulation G2 (widow's pension on member's death in pensionable employment) is modified so that the reference, in regulation G2(2), to the rate of the member's pensionable pay when the member died is treated, in relation to the member's employment as a practitioner, as a reference to the average rate of the member's pensionable earnings during the last complete quarter before the member died.

#### **Increased widower's pension**

19. In the case of female members who elected to buy increased widower's pension under regulation G9 (increased widower's pension) that regulation is modified so that the lump sum payable on the member's retirement will be reduced in respect of each year of practitioner service



that the member buys, by 2.8 per cent of uprated earnings for each complete year before 25th March 1972, and by 1.4 per cent of uprated earnings for each complete year after 24th March 1972 and before 6th April 1988, plus, in each case, the relevant daily proportion for each additional day.

#### **Increased surviving civil partner's pension**

**20.** In the case of a civil partner who made a nomination under regulation G11 (dependent surviving civil partner's pension) or an election under G12 (purchase of surviving civil partner's pension in respect of service prior to 6th April 1988) those regulations are modified so that the lump sum payable on the member's retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service plus, the relevant daily proportion for each additional day.

#### **Increased dependent surviving nominated partner's pension**

**21.** In the case of a member who made a nomination under regulation G15 (dependent surviving nominated partner's pension) that regulation is modified so that the lump sum payable on the member's retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.

#### **Increased surviving partner pension**

**22.** In the case of a member who made an election under regulation G17 (increased surviving partner's pension) that regulation is modified so that the lump sum payable on the member's retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.

#### **Child allowance - member dies in pensionable employment**

- 23.** In the case of a member who dies in pensionable employment as a practitioner—
- (a) regulation H3(8), (9), (12) and (13) is modified so that the references to the rate of the member's pensionable pay when the member died is treated, in relation to the member's employment as a practitioner, as references to the average rate of the member's pensionable earnings during the last complete quarter before the member died; and
  - (b) regulation H3(16) and (18) are modified so that the reference to the member's final year's pensionable pay when the member died is treated as a reference to the yearly average of the member's uprated earnings at the date of death.

#### **Preserved pension**

**24.** Regulation E12 (preserved pension) is modified so that the definition of "regular employment of like duration" in paragraph (16) means such employment as the Scottish Ministers consider would involve a similar level of engagement to the member's pensionable service as a practitioner immediately before that service ceased.

## **PART VII**

### **ABSENCE FROM WORK**

#### **Members away from work and maternity absence**

**25.—(1)** In the case of members who are practitioners, regulations P2 (absence because of illness or injury) and P3 (absence for reasons other than illness or injury) are modified so that the

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references to pensionable pay in regulations P3(3) and P2(2) are treated, in relation to the member's employment as a practitioner, as references to pensionable earnings.

(2) Regulation P2 is further modified so that, if a member's earnings in respect of employment as a practitioner are reduced during a period of absence from work by reason of illness or injury, the member's pensionable earnings will be calculated as described in sub-paragraphs (4) and (5) below (instead of on the basis of the member's earnings immediately before the absence started).

(3) Regulation P2 is further modified so that, if a member's earnings in respect of employment as a practitioner are suspended during a period of absence from work by reason of illness or injury, the member will be treated as continuing in pensionable employment for a period of 12 months from the date on which the member's earnings were suspended and the member will not be treated as having left pensionable employment in accordance with regulation P2(3) until the end of that 12 month period during which period, the member's pensionable earnings will be calculated as described in sub-paragraphs (4) and (5) below.

(4) If the member is one of a number of practitioners who have elected as described in paragraph 6, each practitioner's pensionable earnings will be calculated as if the partnership's total aggregate earnings or total pensionable earnings were equal to the amount of the partnership's total aggregate earnings or total pensionable earnings during the 12 month period ending immediately before the member's earnings were reduced or suspended.

(5) Except where the member's pensionable earnings fall to be calculated as described in sub-paragraph (4) above, the member will be treated as having continued to receive the same average rate of pensionable earnings as during the 12 month period ending immediately before the member's earnings were reduced or suspended.

(6) Regulations P1, P2 and P3 and the previous sub-paragraphs do not apply in the case of locum practitioners.

## PART VIII

### RIGHT TO BUY ADDITIONAL BENEFITS

#### **Right to buy additional benefits**

**26.**—(1) In the case of members who are practitioners, regulations Q1 (right to buy additional service), Q2 (right to buy an unreduced retirement lump sum), Q3 and Q4 (paying by single payment) and Q5 (paying by regular additional contributions) are modified so that the cost of buying additional service and unreduced retirement lump sum and the benefits in respect of any additional service bought under regulation Q1 are calculated as described in this paragraph.

(2) Regulation Q1 is modified so that, if the member elects to pay for additional service by a single payment, the benefits in respect of the additional service will be calculated by increasing the member's pensionable earnings for the financial year in which the member elects to buy the additional service.

(3) The amount of the increase referred to in sub-paragraph (2) will be calculated using the formula—

$$\textit{relevant earnings} \times \textit{additional service bought}$$

where—

“relevant earnings” means the amount of remuneration by reference to which the amount of the single payment was calculated; and

“additional service bought” means the period of additional service that the member chooses to buy, calculated in complete years with a relevant daily proportion for each additional day.

(4) Regulation Q1 is further modified so that, if the member chooses to pay for additional service by regular additional contributions, the benefits in respect of the additional service will be calculated by increasing the member's pensionable earnings for the year in which the member stops paying those contributions.

(5) The amount of the increase referred to in sub-paragraph (4) will be calculated using the formula—

$$\textit{relevant uprated earnings} \times \textit{additional service bought}$$

where—

“relevant uprated earnings” means the yearly average of the part of the member's uprated earnings that is attributable to the period during which the member paid regular additional contributions; and

“additional service bought” means the period of additional service that the member chooses to buy, calculated in complete years with an additional proportion for each additional day.

(6) Paragraphs (3) and (4) of regulation Q3 are modified so that, for the purposes of Table 1 of Schedule 3, “remuneration” means, subject to sub-paragraph (8) below, the yearly average of a member's uprated earnings in respect of practitioner service before the date on which the Scottish Ministers receive notice in writing on the form provided exercising the member's right to buy additional service.

(7) For the purposes of the calculation in sub-paragraph (6), any officer service that is treated as practitioner service by virtue of paragraph 11 (officer service treated as practitioner service) will be ignored.

(8) If, when the Scottish Ministers receive a notice exercising a right to buy additional service, the member has not been in practitioner service for a complete quarter, “remuneration” will be calculated by reference to the member's uprated earnings at the end of the member's first complete quarter in practitioner service.

(9) Regulation Q5(5) is modified so that, if the member elects to pay for additional service or unreduced retirement lump sum by regular additional contributions, the contributions will be calculated as a percentage of pensionable earnings (instead of pensionable pay), in accordance with Table 3 of Schedule 3 (if the member is buying additional service) or Table 4 of Schedule 3 (if the member is buying an unreduced retirement lump sum).

(10) The upper limit on a dental practitioner's pensionable earnings under paragraph 10 (limit on pensionable earnings — dental practitioners) does not apply to any increase in a member's pensionable earnings under this paragraph.

## PART IX

### TRANSFERS FROM OTHER PENSION ARRANGEMENTS

#### **Transfer from other pension arrangements**

27.—(1) In the case of members who are practitioners, regulations N1 (member's right to transfer accrued rights to benefits to this Section of the scheme) and N6 (transfers in respect of more than one member) are modified so that, if a transfer payment is accepted in respect of the member's rights under another occupational pension scheme, a personal pension scheme, self-employed pension arrangement or a buy-out policy, the benefits in respect of the transfer payment will be calculated as described in this paragraph.

(2) The benefits in respect of the transfer payment will be calculated by increasing the member's pensionable earnings for the financial year in which the member joined this Section of the scheme

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(or the financial year in which the transfer payment is received, if the payment is received more than 12 months after the member joined this Section of the scheme).

- (3) The amount of the increase referred to in sub-paragraph (2) will be calculated by—
- (a) treating the member as entitled to a period of officer service equal to the period of employment that qualified the member for the rights in respect of which the transfer payment is being made or when a transfer payment is being made in respect of a self-employment pension arrangement, a period of service calculated in accordance with regulation N4;
  - (b) calculating the final year's pensionable pay that would have given rise to a cash equivalent in respect of that officer service, under regulation M3 (amount of member's cash equivalent), equal to the amount of the transfer payment; and
  - (c) increasing the member's pensionable earnings by an amount equal to the pensionable pay that the member would have received during that period of officer service if the member's pensionable pay had been equal to the final year's pensionable pay mentioned in paragraph (b) above throughout that period.

(4) For the purposes of sub-paragraph (3), the final year's pensionable pay mentioned in paragraph (b) of that sub-paragraph will be calculated in a manner that is consistent with the actuarial methods and assumptions referred to in—

- (a) regulation N3 (transfer made under the Public Sector Transfer Arrangements) where the transfer payment is made under the Public Sector Transfer Arrangements; or
- (b) regulation N4 (transfers that are not made under the Public Sector Transfer Arrangements) in any other case.

(5) The upper limit on a dental practitioner's pensionable earnings under paragraph 10 (limit on pensionable earnings — dental practitioners) will not apply to any increase in a member's pensionable earnings under this paragraph.

## PART X

### CONCURRENT EMPLOYMENT

#### **Members doing more than one job**

**28.**—(1) In the case of members who are practitioners, regulation R4 (members doing more than one job) is modified as described in this paragraph in relation to any practitioner who is in concurrent employment as an officer.

(2) A practitioner who opts not to contribute to this Section of the scheme in respect of the practitioner's employment as a practitioner may, nevertheless, participate in this Section of the scheme in respect of concurrent employment as an officer.

(3) Regulation R4(2) is modified so that a practitioner may participate in this Section of the scheme in respect of concurrent whole-time or part-time employment as an officer, even if the practitioner also participates in this Section of the scheme in respect of employment as a practitioner.

(4) For the purposes of paragraph 16 (early retirement pension — ill health), any amount by which a member's service in respect of concurrent employments exceeds the period during which the member carried on those employments will be ignored for the purpose of calculating the member's total service.

(5) If a transfer payment is accepted in respect of a member who is contributing to this Section of the scheme in respect of employment as a practitioner and concurrent employment as an officer, the member may elect whether the benefits in respect of the transfer payment should be calculated

as described in regulations N1 to N4 or as described in paragraph 27 (transfers from other pension arrangements).

## PART XI

### MEMBERS WHO RETURN TO NHS EMPLOYMENT AFTER PENSION BECOMES PAYABLE

#### **Reduction of pension**

**29.**—(1) In the case of members who are or have been practitioners, regulation S2 (reduction of pension) is modified as described in this paragraph.

(2) Regulation S2(16) is modified so that—

- (a) “pay” means the amount of pensionable earnings received by the member, for any financial year, from NHS employment (or what would have been the member’s pensionable earnings had he been in pensionable employment);
- (b) “previous pay” means the average of the annual amounts of the member’s uprated earnings in respect of service as a practitioner (or service which is treated as practitioner service).

(3) In the case of a practitioner who becomes entitled to receive a pension in respect of both officer service and practitioner service, the member’s previous pay in respect of the member’s practitioner service will be increased by the amount of the member’s previous pay in respect of the member’s officer service.

(4) Where regulation S2(14) applies and the continuing employment is employment as a practitioner, the member’s previous pay as an officer will be increased by the average of the annual amounts of the member’s uprated earnings in respect of the last 3 financial years before becoming entitled to receive the pension referred to in regulation S2(1).

(5) In the case of a practitioner who becomes entitled to receive a pension under this Section of the scheme and who holds a continuing employment otherwise than as a practitioner, previous pay will be increased by the annual rate of remuneration of the continuing employment.

(6) Where a practitioner becomes entitled to receive a pension under this Section of the scheme and, preceding the date on which the practitioner became so entitled, the practitioner held concurrent pensionable employment as an officer, and the concurrent pensionable employment terminated before the practitioner became entitled to the pension, previous pay in relation to the practitioner service will be increased as described in sub-paragraph (7).

(7) For the purpose of sub-paragraph (6), previous pay will be increased by that proportion of the member’s pensionable pay or annual rate of pay (calculated as described in regulation S2(16)), whichever is the greater, that is appropriate to the member’s last year of pensionable employment immediately before becoming entitled to the pension.

#### **Benefits on death in pensionable employment after pension becomes payable**

**30.** The following provisions are modified so that the reference to the member’s rate of pensionable pay when the member dies is treated as a reference to the average rate of the member’s pensionable earnings during the last complete quarter before the member died—

- (a) regulation S5(12) and (17) (benefits on death in pensionable employment after pension becomes payable); and
- (b) regulation S6(12) and (17)(a) (benefits on death in pensionable employment after pension under regulation E3 becomes payable).

## PART XII

### ACCOUNTS

#### **Accounts and actuarial reports**

**31.**—(1) In the case of members who are practitioners or non-GP providers, regulation U3 (accounts and actuarial reports) is modified as described in this paragraph.

(2) In respect of each scheme year, a principal medical practitioner or a non-GP provider shall provide the Contracting Health Board or someone appointed to act on their behalf with a certificate of the member's pensionable earnings based on—

- (a) the accounts drawn up in accordance with generally accepted accounting practice by the practice of which the member is a member; and
- (b) the return that member has made to HM Revenue and Customs in respect of their earnings for that year,

no later than 1 month after the date on which that return was required to be submitted to Revenue and Customs.

(3) In respect of each scheme year, an assistant medical practitioner or salaried GP shall provide each relevant employer with a certificate of their pensionable earnings based on—

- (a) the payments that member receives from employing authorities for practitioner services; and
- (b) the return that member has made to Revenue and Customs in respect of the member's earnings for that year,

no later than 1 month after the date on which that return was required to be submitted to Revenue and Customs.

(4) Where the member is an assistant practitioner—

- (a) in respect of each scheme year, in order that a correct contribution tier can be allocated, the member must provide each employer with an estimate of pensionable practitioner earnings from all employments;
- (b) at the end of each scheme year, the member must provide the Scottish Ministers with a statement from each employer of actual pensionable practitioner earnings from all employments and to provide a copy of this information to the scheme administrator; and
- (c) the information required in paragraphs (a) and (b) will be in such form as the Scottish Ministers require.

(5) The Scottish Ministers will be provided with—

- (a) the estimate referred to in sub-paragraph (4)(a) at least 1 month before the beginning of that scheme year;
- (b) the statement referred to in sub-paragraph (4)(b) no later than 3 months after the end of that scheme year.

(6) The Contracting Health Board, or someone appointed to act on their behalf, for each scheme year and no later than 13 months after the end of each scheme year, must forward to the Scottish Ministers a copy of the records they maintain in respect of—

- (a) all contributions to this Section of the scheme made under paragraph 14 of this Schedule in respect of principal medical practitioners and non-GP providers; and
- (b) their pensionable earnings.

(7) Subject to sub-paragraphs (8) and (9), if, in respect of a scheme year, a member has failed to comply with the requirements of whichever of sub-paragraphs (2) to (5) applies to that member, the member's pensionable earnings for that scheme year shall be zero.

(8) If, in respect of a scheme year—

- (a) a practitioner or non-GP provider has failed to comply with the requirements of whichever of sub-paragraphs (2) to (5) applies to that member;
- (b) a benefit in respect of such service is payable to, or in respect of that member, under these Regulations; and
- (c) the member's employing authority or if a Contracting Health Board, or someone appointed to act on their behalf is in possession of a figure representing all or part of the member's pensionable earnings for that year,

the Scottish Ministers may treat that figure as the amount of the member's pensionable earnings for that year.

(9) If, in respect of a scheme year, a practitioner or non-GP provider—

- (a) dies without complying with the requirements of whichever of sub-paragraphs (2) to (5) applies to that member; or
- (b) is, in the opinion of the Scottish Ministers, unable to look after the member's own affairs by reason of illness or mental disorder,

the Scottish Ministers may require that practitioner or non-GP provider's personal representatives or person (or person's) duly authorised to act on the member's behalf to provide the relevant certificate—

- (i) within the period referred to in whichever of sub-paragraphs (2) to (5) was or is applicable to them; or
- (ii) within such other period as the Scottish Ministers permit.

(10) The certificates and statements referred to in this regulation—

- (a) must be in such form as the Scottish Ministers from time to time require;
- (b) must be provided to the Scottish Ministers in such manner as the Scottish Ministers may from time to time permit.

## SCHEDULE 2

Regulation R14

### PENSION SHARING ON DIVORCE OR NULLITY OF MARRIAGE OR DISSOLUTION OR NULLITY OF A CIVIL PARTNERSHIP

#### **Retirement pension and retirement lump sum**

1. PART E of these Regulations is subject to the following modifications—

- (a) where the shareable rights of a pension debit member are subject to a pension sharing order, the amount of the retirement pension or retirement lump sum payable to a pension debit member is reduced in accordance with regulation W5 (pension debits and reduction of benefit); and
- (b) the amount of the reduction will be calculated in accordance with guidance issued for this purpose by the scheme actuary.

### **Lump sum on death**

2. PART F of these Regulations is subject to the following modification—
- (a) regulation F2 (lump sum when member dies after pension becomes payable), subject to regulation S5, applies in respect of a pension debit member so that—
    - (i) references to the “member’s pension” is the pension reduced in accordance with regulation W5; and
    - (ii) “the member’s retirement lump sum paid under regulation E13” is the retirement lump sum that would have been payable under that Regulation had there been no reduction under regulation W5; and
  - (b) regulation F5 (payment of lump sum) applies in respect of a person entitled to a pension credit or a pension credit member, as the case may be, or a pension debit member with the modification that the references in that regulation to “member” are references to a person entitled to a pension credit or, as the case may be, a pension credit member.
  - (c) the reference in regulation F5(2) and (4) to “member’s personal representative” is a reference to “personal representative of the person entitled to a pension credit or, as the case may be, the pension credit member”;
  - (d) for regulation F5(6) substitute—

“(6) A nomination may only be made by a person entitled to a pension credit, or as the case may be, a pension credit member under the scheme.”;
  - (e) for regulation F5(9) substitute—

“(9) A person entitled to a pension credit, or as the case may be, a pension credit member whose credit was implemented on, or after, 1st April 2008 cannot give a notice referred to in paragraph (3)(a).”
  - (f) in regulation F5(12) omit sub-paragraph (d).

### **Widows, widowers and surviving civil partners**

3. PART G (surviving partner pensions), is modified so that references to “the pension that would have been payable to the member” in respect of a pension debit member means the pension reduced in accordance with regulation W5 to which the pension debit member would have been entitled had the pension debit member become entitled to a pension on the date that the pension debit member died.

### **Dependent child allowance**

4. Part H (dependent child allowance) is modified so that—
- (a) references to the pension that would have been payable to the member in respect of the death of a pension debit member, means the pension that would have been payable to the pension debit member under Part E had the pension sharing order not applied; and
  - (b) references to “member” do not include a reference to a pension credit member.

### **Contracting out and guaranteed minimum pension**

5. Part K is modified so that references to the member’s guaranteed minimum will in respect of a pension debit member subject to a reduction under 10(4) and (5) and 15A of the 1993 Act in respect of protected rights or guaranteed minimum pension, be those protected rights or guaranteed pension reduced in accordance with regulation W6 of these Regulations.



**Transfer-out arrangements and buy-outs**

6. Part M (transfer-out arrangements and buy-outs) is modified as follows so that—
- (a) accrued benefits in respect of a pension debit member will be subject to a reduction under PART W of these Regulations; and
  - (b) references to “member” does not include a reference to a pension credit member.

**Right to buy additional service and unreduced lump sum**

7. PART Q (Right to buy additional service and unreduced lump sum) is modified so that—
- (a) these Regulations will apply to a pension debit member subject to the limitations in regulation W15; and
  - (b) references to “member” do not include a reference to a pension credit member.

**Members who return to pensionable employment after pension becomes payable**

8. PART S (members who return to pensionable employment after pension becomes payable) is modified so that references to “pension” and “member’s pension” do not include a pension credit benefit.

**Offset for crime, fraud or negligence**

9. Regulation T6 (offset for crime, fraud or negligence) applies to a pension credit member with the modification that any references to “member’s” or “member” are references to pension credit member’s or pension credit member, as the case may be.

10. Regulation T7 (loss of rights to benefits) applies to a pension credit member with the modification that any reference to “member” is a reference to pension credit member.

SCHEDULE 3

Part Q

PURCHASE OF ADDITIONAL SERVICE AND UNREDUCED RETIREMENT LUMP SUM

**Table 1**

(Regulation Q3(3))

Paying for additional service by a single payment

<i>Member’s age when Scottish Ministers receive notice of election</i>	<i>Cost per £100 of remuneration for each year of additional service</i>
(1)	(2)
	£
20	25.20
21	24.70
22	24.20
23	23.70
24	23.20

**Status:** This is the original version (as it was originally made).

<i>Member's age when Scottish Ministers receive notice of election (1)</i>	<i>Cost per £100 of remuneration for each year of additional service (2)</i>
	£
25	22.70
26	22.20
27	21.80
28	21.40
29	21.10
30	20.90
31	20.70
32	20.50
33	20.30
34	20.10
35	20.00
36	20.00
37	20.00
38	20.00
39	20.00
40	20.00
41	20.00
42	20.00
43	20.00
44	20.00
45	20.10
46	20.30
47	20.50
48	20.70
49	20.90
50	21.00
51	21.00
52	21.00
53	21.00
54	21.00
55	21.10
56	21.30

<i>Member's age when Scottish Ministers receive notice of election (1)</i>	<i>Cost per £100 of remuneration for each year of additional service (2)</i>
	£
57	21.60
58	21.90
59	21.90
60	21.70
61	21.50
62	21.30
63	21.10
64	21.00
65	20.80
66	20.30
67	19.70
68	19.10
69	18.50

**Table 2**

(Regulation Q4(3))

Paying for unreduced retirement lump sum by a single payment

<i>Member's age when Scottish Ministers receive notice of election (1)</i>	<i>Cost per £100 of remuneration for each year of service in respect of which unreduced retirement lump sum is bought (2)</i>
	£
29	2.48
30	2.46
31	2.44
32	2.41
33	2.39
34	2.36
35	2.35
36	2.35
37	2.35
38	2.35

**Status:** This is the original version (as it was originally made).

<i>Member's age when</i>	<i>Cost per £100 of remuneration for each</i>
<i>Scottish Ministers</i>	<i>year of service in respect of which unreduced</i>
<i>receive notice of election</i>	<i>retirement lump sum is bought</i>
(1)	(2)
	£
39	2.35
40	2.35
41	2.35
42	2.35
43	2.35
44	2.35
45	2.36
46	2.38
47	2.41
48	2.44
49	2.46
50	2.47
51	2.47
52	2.47
53	2.47
54	2.47
55	2.48
56	2.50
57	2.50
58	2.50
59	2.50
60	2.50
61	2.50
62	2.50
63	2.50
64	2.50
65	2.50
66	2.50
67	2.50
68	2.50

<i>Member's age when Scottish Ministers receive notice of election (1)</i>	<i>Cost per £100 of remuneration for each year of service in respect of which unreduced retirement lump sum is bought (2)</i>
	£
69	2.50

**Table 3**

(Regulation Q5(5))

Paying for additional service by regular additional contributions

<i>Member's age at next birthday after Scottish Ministers receive notice of election</i>	<i>Percentage of pensionable pay for each complete year of additional service Birthday to which member has elected to pay contributions</i>		
	55	60	65
20	.61	.50	.36
21	.64	.52	.38
22	.67	.54	.40
23	.70	.56	.42
24	.74	.58	.44
25	.78	.60	.46
26	.82	.62	.48
27	.86	.64	.50
28	.90	.66	.52
29	.94	.68	.54
30	.98	.70	.56
31	1.02	.72	.58
32	1.07	.75	.60
33	1.12	.78	.62
34	1.17	.81	.64
35	1.22	.85	.67
36	1.28	.89	.69
37	1.35	.93	.72
38	1.43	.98	.74
39	1.51	1.03	.77
40	1.60	1.09	.80

**Status:** This is the original version (as it was originally made).

<i>Member's age at next birthday after Scottish Ministers receive notice of election</i>	<i>Percentage of pensionable pay for each complete year of additional service</i>		
	<i>Birthday to which member has elected to pay contributions</i>		
	55	60	65
41	1.70	1.15	.83
42	1.83	1.22	.87
43	2.00	1.30	.91
44	2.20	1.39	.95
45	2.42	1.48	1.00
46	2.69	1.58	1.06
47	3.02	1.70	1.13
48	3.45	1.85	1.21
49	4.02	2.03	1.29
50	4.80	2.25	1.38
51	6.04	2.53	1.48
52	8.05	2.86	1.60
53	12.18	3.26	1.74
54		3.80	1.90
55		4.58	2.08
56		5.77	2.30
57		7.77	2.56
58		12.06	2.92
59			3.40
60			4.10
61			5.20
62			6.97
63			10.42

**Table 4**

(Regulation Q5(5))

Paying for unreduced retirement lump sum by regular additional contributions

**Status:** This is the original version (as it was originally made).

<i>Member's age at next birthday after the Secretary of State receives notice of election</i>	<i>Percentage of pensionable pay for each complete year of additional service in respect of which unreduced retirement lump sum is bought</i>		
	<i>Birthday to which member has elected to pay contributions</i>		
	55	60	65
29	.11	.08	.06
30	.12	.08	.07
31	.12	.08	.07
32	.13	.09	.07
33	.13	.09	.07
34	.14	.10	.08
35	.14	.10	.08
36	.15	.11	.08
37	.16	.11	.08
38	.17	.12	.09
39	.18	.12	.09
40	.19	.13	.09
41	.20	.13	.10
42	.22	.14	.10
43	.24	.15	.11
44	.26	.16	.11
45	.29	.17	.12
46	.32	.19	.12
47	.36	.20	.13
48	.41	.22	.14
49	.47	.24	.15
50	.56	.27	.16
51	.71	.30	.17
52	.95	.34	.19
53	1.43	.38	.20
54		.45	.22
55		.54	.24
56		.68	.27
57		.91	.30
58		1.42	.34

*Status: This is the original version (as it was originally made).*

<i>Member's age at next birthday after the Secretary of State receives notice of election</i>	<i>Percentage of pensionable pay for each complete year of additional service in respect of which unreduced retirement lump sum is bought</i>		
	<i>Birthday to which member has elected to pay contributions</i>		
	55	60	65
59			.40
60			.48
61			.61
62			.82
63			1.23

## SCHEDULE 4

Regulation W2

## REVOCATIONS

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Regulations revoked</i>	<i>References</i>	<i>Extent of Revocation</i>
The National Health Service Superannuation Scheme (Scotland) Regulations 1995	<a href="#">S.I. 1995/365</a>	The whole Regulations.
The National Health Service Superannuation Scheme (Scotland) Amendment Regulations 1997	<a href="#">S.I. 1997/1434</a>	The whole Regulations.
The National Health Service Superannuation Scheme (Scotland) Amendment (No.2) Regulations 1997	<a href="#">S.I. 1997/1916</a>	The whole Regulations.
The National Health Service Superannuation Scheme (Scotland) Amendment Regulations 1998	<a href="#">S.I. 1998/1593</a>	The whole Regulations.
The National Health Service Superannuation Scheme (Scotland) Amendment Regulations 1999	<a href="#">S.I. 1999/443</a>	The whole Regulations.
The National Health Service (Superannuation Scheme, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2001	<a href="#">S.S.I. 2001/437</a>	Regulations 2, 5 to 18.



<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Regulations revoked</i>	<i>References</i>	<i>Extent of Revocation</i>
The National Health Service (Scotland) (Superannuation Scheme and Additional Voluntary Contributions) (Pension Sharing on Divorce) Amendment Regulations 2001	<a href="#">S.S.I. 2001/465</a>	Regulation 3 and Schedule 1.
The Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001	<a href="#">S.I. 2001/3649</a>	Article 244.
The National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2003	<a href="#">S.S.I. 2003/55</a>	The whole Regulations.
The National Health Service Superannuation Scheme (Scotland) Amendment (No.2) Regulations 2003	<a href="#">S.S.I. 2003/270</a>	The whole Regulations.
The National Health Service Superannuation Scheme (Scotland) Amendment (No.3) Regulations 2003	<a href="#">S.S.I. 2003/517</a>	The whole Regulations.
The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Subordinate Legislation) Order 2005	<a href="#">S.S.I. 2005/445</a>	Paragraph 22 of the Schedule.
The National Health Service (Superannuation Scheme, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2005	<a href="#">S.S.I. 2005/512</a>	Regulations 2, 5 to 29.
The National Health Service (Superannuation Scheme, Injury Benefits, Additional Voluntary Contributions and Compensation for Premature Retirement) (Civil Partnership) (Scotland) Amendment Regulations 2005	<a href="#">S.S.I. 2005/544</a>	Regulations 2, 6 to 37.
The Dentists Act 1984 (Amendment) Order 2005	<a href="#">S.I. 2005/2011</a>	Paragraph 10 of Schedule 6.
The National Health Service (Superannuation Scheme and Additional Voluntary	<a href="#">S.S.I. 2006/307</a>	Regulations 2 to 17.

*Status:* This is the original version (as it was originally made).

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Regulations revoked</i>	<i>References</i>	<i>Extent of Revocation</i>
Contributions) (Scotland) Amendment Regulations 2006		
The National Health Service (Superannuation Scheme and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2006	<a href="#">S.S.I. 2006/561</a>	Regulation 2.
The National Health Service (Superannuation Scheme, Injury Benefits, Additional Voluntary Contributions and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008	<a href="#">S.S.I. 2008/92</a>	Regulation 2.
The National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2008	<a href="#">S.S.I. 2008/226</a>	The whole Regulations.
The National Health Service (Superannuation Scheme, Pension Scheme and Injury Benefits) (Scotland) Amendment Regulations 2009	<a href="#">S.S.I. 2009/19</a>	Regulations 2 to 22.
The National Health Service (Superannuation Scheme, Pension Scheme and Injury Benefits) (Scotland) Amendment (No.2) Regulations 2009	<a href="#">S.S.I. 2009/208</a>	Regulations 2 to 14.
The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2010	<a href="#">S.S.I. 2010/22</a>	Regulations 2 to 10. Part 1 and Part 3 of Schedule 1.
The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010	<a href="#">S.I. 2010/234</a>	Paragraph 16 of Schedule 3 to the extent that it amends the National Health Service Superannuation Scheme (Scotland) Regulations 1995.
The National Health Service (Superannuation Scheme, Pension Scheme, Injury	<a href="#">S.S.I. 2010/369</a>	Regulations 2 to 21 and the Schedule.

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>
<i>Regulations revoked</i>	<i>References</i>	<i>Extent of Revocation</i>
Benefits and Additional Voluntary Contributions) (Scotland) Amendment (No.2) Regulations 2010		
The National Health Service (Superannuation Scheme and Pension Scheme) (Scotland) Amendment Regulations 2011	<a href="#">S.S.I. 2011/53</a>	Regulation 2.