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SCOTTISH STATUTORY INSTRUMENTS

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**2012 No. 163**

**The National Health Service Superannuation Scheme  
etc. (Miscellaneous Amendments) (Scotland) Regulations 2012**

**PART 2**

**AMENDMENT OF THE NATIONAL HEALTH SERVICE  
SUPERANNUATION SCHEME (SCOTLAND) REGULATIONS 2011**

2. The National Health Service Superannuation Scheme (Scotland) Regulations 2011<sup>(1)</sup> are amended in accordance with this Part.

3. In regulation D2 (contributions and other payments by employing authorities), after paragraph (5) insert—

“(5A) In paragraph (5)(a), the cost of providing the pension excludes any increase in the benefits payable to the member which are attributable to the purchase by the member of additional service or additional pension under Part Q of this Section of the scheme.”.

4. In regulation N4 (transfers that are not made under the Public Sector Transfer Arrangements), in paragraph (1) for “N2” substitute “N3”.

5. In regulation R7 (former members of health service schemes), in paragraph (1)—

(a) in sub-paragraph (b), omit from “or a scheme” to the end;

(b) after sub-paragraph (b), insert—

“(ba) in the case of a member whose pensionable employment commenced on or before 31st March 2012, a superannuation scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald)<sup>(2)</sup>, or”.

6. In regulation S1 (suspension of pension on return to NHS employment), for paragraph (5) substitute—

“(5) For the purposes of this regulation “NHS employment” includes—

(a) employment in respect of which regulations made under section 10 of the Superannuation Act 1972, and having effect in England and Wales, apply;

(b) employment to which regulations made under Article 12 of the Superannuation (Northern Ireland) Order 1972 apply; and

(c) employment commencing on or before 31st March 2012 to which a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald) applies.”.

7. In regulation T3 (deduction of tax: further provisions)—

(a) in paragraph (4) after “entitlement to” insert “transitional protection against a lifetime allowance charge,”;

(b) after paragraph (5) insert—

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(1) S.S.I. 2011/117, amended by S.S.I. 2011/173 and 364 and 2012/69.

(2) 1984 c.8 (Tynwald).

“(5A) If a person claiming a benefit under these Regulations intends to rely on entitlement to transitional protection against a lifetime allowance charge in accordance with paragraph 14 of Schedule 18 to the Finance Act 2011<sup>(3)</sup>, that person must give to the scheme administrator—

(a) the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011<sup>(4)</sup> in respect of that entitlement; and

(b) the information referred to in paragraph (4).”;

(c) for paragraph (9), substitute—

“(9) This paragraph applies to a member who—

(a) is liable to an annual allowance charge in accordance with section 237A of the 2004 Act; and

(b) meets the conditions specified in paragraph (1) of section 237B of that Act.

(10) Subject to section 237C of the 2004 Act, a member to whom paragraph (9) applies may give notice in writing to the scheme administrator specifying that the scheme administrator and the member are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that member in accordance with section 237B of the 2004 Act.

(11) Unless the scheme administrator’s liability to an annual allowance charge referred to in paragraph (10) is discharged in accordance with section 237D of the 2004 Act—

(a) that annual allowance charge will be paid by the scheme administrator on behalf of the member; and

(b) that member’s present or future benefits in respect of which that charge arises are to be adjusted in accordance with section 237E of the 2004 Act and calculated by reference to advice provided by the Scheme Actuary for that purpose.

(12) Paragraph (13) applies to members who are practitioners or non-GP providers.

(13) The members referred to in paragraph (12) must provide the information required by regulation 15A of the Registered Pension Schemes (Provision of Information) Regulations 2006<sup>(5)</sup> in respect of their benefits under the scheme, in a manner prescribed from time to time by the Scottish Ministers.

(14) “Enhanced lifetime allowance” and “enhanced protection” are to be construed in accordance with the 2004 Act.”.

8. In regulation T8 (commutation of trivial pensions), for paragraph (3)(b) substitute—

“(b) either—

(i) the lump sum rule and lump sum death benefit rule; or

(ii) the requirements of regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009<sup>(6)</sup> (payments by larger pension schemes).”.

9. In regulation U2 (determination of questions)—

(a) in paragraph (3), after “paragraph (4)” insert “or in making a decision referred to in paragraph (5).”;

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(3) 2011 c.11.

(4) S.I. 2011/1752.

(5) S.I. 2006/567, amended by S.I. 2006/1961 and 2004, 2008/720, 2010/581, 2011/301 and 1797 and 2012/884.

(6) S.I. 2009/1171, amended by S.I. 2011/1751 and 2012/522.

- (b) in paragraph (4)(e), for “and E12” substitute “, E12 and V17”; and
- (c) after paragraph (4), insert—

“(5) The decision referred to for the purposes of paragraph (3) is a decision as to whether a person is able to satisfy the severe ill-health condition for the purposes of section 229(3)(a) of the 2004 Act (total pension input amount).”.

**10.** Schedule 1 (medical and dental practitioners) is amended as follows—

- (a) for paragraph 5(2)(a)(viii) substitute—
  - “(viii) payments made to a principal practitioner by a Health Board with whom that practitioner has an arrangement to provide general dental services or general ophthalmic services or pharmaceutical services for the provision of such services;”;
- (b) in paragraph 14—
  - (i) in sub-paragraph (8) after “Health Board” insert “(or, in the case of dentists or ophthalmic medical practitioners, the Health Board with whom they have an arrangement to provide general dental services or general ophthalmic services)”;
  - (ii) in sub-paragraph (12), after “Health Board” (in each place where it occurs) insert “(or, in the case of dentists or ophthalmic medical practitioners, the Health Board with whom they have an arrangement to provide general dental services or general ophthalmic services)”;
  - (iii) omit sub-paragraph (13);
  - (iv) in sub-paragraph (20)(b), after “Health Board” insert “(or, in the case of dentists or ophthalmic medical practitioners, the Health Board with whom they have an arrangement to provide general dental services or general ophthalmic services)”;
  - (v) in sub-paragraph (21), after “Health Board” (in each place where it occurs) insert “(or, in the case of dentists or ophthalmic medical practitioners, the Health Board with whom they have an arrangement to provide general dental services or general ophthalmic services)”.