
SCOTTISH STATUTORY INSTRUMENTS

2012 No. 163

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

PART 3

**AMENDMENT OF THE NATIONAL HEALTH SERVICE
PENSION SCHEME (SCOTLAND) REGULATIONS 2008**

11. The National Health Service Pension Scheme (Scotland) Regulations 2008⁽¹⁾ are amended in accordance with this Part.

12. In regulation 1.B.3 (provision of information for tax purposes)—

(a) after paragraph (3) insert—

“(3A) 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⁽²⁾, that person must give to the scheme administrator the reference number issued by the Commissioners under the Registered Pension Schemes (Lifetime Allowance Transitional Protection) Regulations 2011 in respect of that entitlement.”; and

(b) after paragraph (5) insert—

“(6) Paragraph (7) applies to members who are practitioners or non-GP providers.

(7) The members referred to in paragraph (6) must provide the information required by regulation 15A of the Registered Pension Schemes (Provision of Information) Regulations 2006 in respect of their benefits under the scheme, in a manner prescribed from time to time by the Scottish Ministers.”.

13. In regulation 2.A.1 (interpretation: general), in paragraph (1)—

(a) in the definition of “the 1995 Section”, before “Superannuation” insert “Service”;

(b) in the definition of “corresponding health service scheme”, for paragraph (c) substitute—

“(c) a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), in the case of a member who entered NHS employment on or before 31st March 2012;”.

14. In regulation 2.H.1 (application of Chapter 2.H), in paragraph (2)(d) after “employment” insert “commencing on or before 31st March 2012”.

15. In regulation 2.J.5 (commutation of small pensions), in paragraph (2)—

(a) omit “and” at the end of sub-paragraph (e); and

(b) after sub-paragraph (f), insert—

“; and

(1) S.S.I. 2008/224, amended by S.S.I. 2009/19 and 208, 2010/22, 53 and 369, S.I. 2010/234 and S.S.I. 2011/ 364 and 2012/69.
(2) 2011 c.11.

- (g) regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (payments by larger pension schemes).”.
- 16.** In regulation 2.J.8 (deduction of tax), after paragraph (8) insert—
- “(9) Without prejudice to the generality of paragraph (1), a person 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,
- may give notice in writing to the scheme administrator specifying that the scheme administrator and the person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.
- (10) Unless the scheme administrator’s liability to an annual allowance charge referred to in paragraph (9) 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) the 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 are to be calculated by reference to advice provided by the Scheme Actuary for that purpose.”.
- 17.** In regulation 2.J.10 (determination of questions), in paragraph (4)—
- (a) omit “or” at the end of sub-paragraph (e); and
- (b) after sub-paragraph (f), insert—
- “or
- (g) determining whether an individual satisfies the severe ill-health condition for the purposes of section 229(3)(a) of the 2004 Act (total pension input amount).”.
- 18.** In regulation 2.K.4 (treatment of additional pension), for paragraph (4)(a) substitute—
- “(a) that was purchased in the 1995 Section under regulation Q13 of the 2011 Regulations, where the person’s chosen birthday under the OPAP was 65;”
- 19.** In regulation 3.A.1 (interpretation of Part 3: general), in paragraph (1), in the definition of “corresponding health service scheme”, for paragraph (c) substitute—
- “(c) a scheme made under section 2 of the Superannuation Act 1984 (an Act of Tynwald), in the case of a member who entered NHS employment on or before 31st March 2012;”.
- 20.** In regulation 3.A.7 (meaning of “pensionable earnings”), for paragraph (1) substitute—
- “(1) In the case of a principal practitioner who is not in receipt of a salary, wages, fees or any regular payments in respect of that person’s employment as an officer, “pensionable earnings” means practitioner income less—
- (a) any sum on account of practice expenses (for these purposes, C3 contributions payable under regulation 3.C.5(5) or (6) are neither practitioner income or 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.”.

- 21.** In regulation 3.C.2 (members' contribution rate)—
- (a) in paragraphs (5)(b), (8) and (10) 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 ophthalmic services)”;
 - (b) in paragraph (9), for “3.C.1” substitute “2.C.1”; and
 - (c) omit paragraph (11).
- 22.** In regulation 3.H.1 (application of Chapter 3.H), in paragraph (3)(d) after “employment” insert “commencing on or before 31st March 2012”.
- 23.** In regulation 3.J.5 (commutation of small pensions), in paragraph (2)—
- (a) omit “and” at the end of sub-paragraph (e); and
 - (b) after sub-paragraph (f), insert—
 - “; and
 - (g) regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (payments by larger pension schemes).”.
- 24.** In regulation 3.J.8 (deduction of tax) after paragraph (8) insert—
- “(9) Without prejudice to the generality of paragraph (1), a person 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,
- may give notice in writing to the scheme administrator specifying that the scheme administrator and the person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.
- (10) Unless the scheme administrator's liability to an annual allowance charge referred to in paragraph (9) 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) the 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.”.
- 25.** In regulation 3.J.10 (determination of questions), in paragraph (4)—
- (a) omit “or” at the end of sub-paragraph (e); and
 - (b) after sub-paragraph (f), insert—
 - “; or
 - (g) determining whether an individual satisfies the severe ill-health condition for the purposes of section 229(3)(a) of the 2004 Act (total pension input amount).”.