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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 174**

**The National Health Service Superannuation  
Scheme (2008 Section) (Scotland) Regulations 2013**

**PART 2**

**BENEFITS FOR OFFICERS**

**CHAPTER 2.E**

**DEATH BENEFITS**

*Pensions for surviving dependent adults*

**Amount of surviving adult's pension: active members and non-contributing members**

**2.E.3.**—(1) In the case of an active member or a non-contributing member, for the period of 6 months beginning with the day after the member's death (“the initial period”) the rate of the pension payable under regulation 2.E.1 (surviving dependent adult's pension) (if that amount is greater than the amount of the pension payable to the surviving adult under this Chapter apart from this paragraph), is equal to—

- (a) in the case of a deceased active member, the rate of the member's pensionable pay at the time of death;
- (b) in the case of a deceased non-contributing member, the rate of the deceased's reckonable pay.

(2) Subject to paragraphs (3) and (7), after the initial period, if the member dies with two or more years of qualifying service, the annual amount of the pension payable under regulation 2.E.1—

- (a) if the member has not reached age 65, is equal to 37.5% of the upper tier ill health pension under regulation 2.D.8 (early retirement on ill health: active members and non-contributing members) to which the member would have been entitled if on the date of death the member had become entitled to such a pension; and
- (b) if the member has reached age 65, is equal to 37.5% of the pension under regulation 2.D.1 (normal retirement pensions) to which the member would have been entitled if on the date of death the member had become entitled to such a pension in respect of any period of pensionable service that the member is entitled to count.

(3) Subject to paragraph (7), after the initial period, if the member dies with less than two years of qualifying service but after reaching age 65, the annual amount of the pension payable under regulation 2.E.1 is equal to 37.5% of the pension to which the member would have been entitled (disregarding any additional pension) if on the date of death the member had become entitled to a pension under regulation 2.D.1 (normal retirement pensions in respect of any period of pensionable service that the member is entitled to count.

- (4) After the initial period, if—

- (a) the member dies with less than two year's qualifying service and before reaching age 65; and
- (b) the surviving adult has a guaranteed minimum under section 17 (minimum pensions for widows and widowers) of the 1993 Act in relation to benefits in respect of the deceased member under this Section of the scheme,

the annual amount of the pension payable under regulation 2.E.1 is equal to that guaranteed minimum, unless paragraph (5) applies.

(5) This paragraph applies if the Scottish Ministers' liability to provide a guaranteed minimum pension in respect of the surviving adult is discharged by the payment of a contributions equivalent premium under section 55(2) (payment of state scheme premiums on termination of certified status) of the 1993 Act.

(6) This regulation is subject to regulation 2.E.7 (amount of surviving adult's pension: re-employed pensioners).

- (7) For the purposes of paragraphs (2)(b) and (3), no account is to be taken of any increase under—
  - (a) regulation 2.D.3 (late payment of pension with actuarial increase); or
  - (b) regulation 2.K.21.

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013, Section 2.