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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 3**

**BENEFITS FOR PRACTITIONERS, ETC.**

**CHAPTER 3.E**

**DEATH BENEFITS**

*Lump sum death benefits*

**Amount of lump sum: dual capacity members (members with pensions under regulation 3.D.5)**

**3.E.19.**—(1) Paragraph (2) applies for determining the lump sum payable by virtue of this regulation on the death of a member who—

- (a) was an active member or a non-contributing member in service in an employment in respect of which the member has exercised the option under regulation 3.D.5 (partial retirement: members aged at least 55); and
  - (b) was a pensioner member by virtue of being entitled to a pension under that regulation.
- (2) The lump sum is an amount—
- (a) equal to the sum of—
    - (i) in the case of a deceased active member, twice the appropriate fraction of the annual average of the member's uprated earnings at the date of death;
    - (ii) in the case of a deceased non-contributing member, twice the appropriate fraction of the annual average of the member's uprated earnings at the member's last day of pensionable service; and
  - (b) if the member had been entitled to any pensions under regulation 3.D.5 for less than 5 years, the lesser of—
    - (i) the total of the guarantee amounts for each of those pensions (see paragraph (3)); and
    - (ii) the aggregate lump sum cap (see paragraph (4)),

and, in the case of a 2008 Section Optant, this is subject to regulation 3.K.22 (lump sum payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E3 of the 2011 Regulations).

(3) The guarantee amount for a pension under regulation 3.D.5 is 5 times the annual rate of the pension at the date of death, less the amount of the pension payments already made to the member in respect of the pension.

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(4) The aggregate lump sum cap is equal to twice the appropriate fraction of the annual average of the member’s uprated earnings by reference to which the pension to which the member became entitled on last exercising the option under regulation 3.D.5 (partial retirement: members aged at least 55) was calculated, less the total of any lump sums paid to the member—

- (a) in exchange for pensions under regulation 3.D.5 as a result of the member exercising the option under regulation 3.D.10 (general option to exchange part of pension for lump sum); and
- (b) in the case of a 2008 Section Optant, the lump sum paid to that Optant under regulation 3.K.10.

(5) In this regulation “the appropriate fraction” means—

$$\frac{DPDS}{TDPS}$$

where—

*DPS* is, where the member continues in pensionable service as an active member or a non-contributing member on the option day (or the last such option day if the option has been exercised more than once), the total percentage of the pension which does not form part of the specified percentage of pension at the option day; and

*TDPS* is the aggregate of *DPS* and the total percentage of the pension (at the option day or the last such option day if the option has been exercised more than once) which forms part of the specified percentage of pension.