

SCHEDULE 2

Regulation 40

Amendments to the old scheme

PART 1

Amendment of the 2011 Regulations

General

1. The 2011 Regulations are amended in accordance with the remaining paragraphs of this Part.

Amendment of regulation B2

2. In regulation B2 (restrictions on membership)—
 - (a) omit sub-paragraphs (h)(v) and (i)(iv) of paragraph (1); and
 - (b) after sub-paragraph (b) of paragraph (2), insert—
 - “(c) for the purposes of sub-paragraphs (i) and (1)(iii)(aa), any break in pensionable employment where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.”.

Amendment of regulation B3

3. After paragraph (3) of regulation B3 (restriction on further participation in this Section of the scheme), add—

“(4) A person who on 1st April 2012 has not attained the age of 41 years and 7 months may not contribute to or accrue further pensionable service under this Section of the scheme in respect of service in NHS employment on, or after, 1st April 2015.

(5) A person who on 1st April 2012 has attained the age of 50 may not contribute to or accrue further pensionable service under this Section of the scheme unless that person either—

- (a) is in pensionable employment on 31st March 2015; or
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(6) A person who on 1st April 2012 has attained the age of 45 but not the age of 46 years and 7 months may not contribute to or accrue further pensionable service under this Section of the scheme unless either paragraph (7) or (8) applies to that person and that person—

- (a) is in pensionable employment on 31st March 2015; or
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(7) This paragraph applies to a person who was on 1st April 2012 in pensionable employment as a special class officer—

- (a) under regulation R2; or
- (b) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

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(8) This paragraph applies to a person who was on 31st March 2015 in pensionable employment as a special class officer—

- (a) under regulation R2; or
- (b) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(9) A person who on 1st April 2012 has attained the age of 46 years and 7 months but has not attained the age of 50, may not contribute to or accrue further pensionable service under this Section of the scheme unless one of paragraph (10), (11) or (12) applies to that person and that person—

- (a) is in pensionable employment on 31st March 2015; or
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(10) This paragraph applies to a person whose eligibility cessation date calculated in accordance with paragraph (15) has not been reached.

(11) This paragraph applies to a person if on the day before that person's eligibility cessation date calculated in accordance with paragraph (10), that person is in pensionable employment as a special class officer—

- (a) under regulation R2; or
- (b) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(12) A person who on 1st April 2012 has attained the age of 41 years and 7 months but has not attained the age of 45, may not contribute to or accrue further pensionable service under this Section of the scheme unless either paragraph (13) or (14) applies to that person and that person—

- (a) is in pensionable employment on 31st March 2015; or
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(13) This paragraph applies to a person if that person was on 1st April 2012 in pensionable employment as a special class officer—

- (a) under—
 - (i) regulation R2; or
 - (ii) regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation; and
- (b) that person's eligibility cessation date calculated in accordance with paragraph (16) has not been reached.

(14) This paragraph applies to a person if that person was on 31st March 2015 in pensionable employment as a special class officer—

- (a) under—
 - (i) regulation R2; or

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- (ii) regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation; and
 - (b) that person's eligibility cessation date calculated in accordance with paragraph (16) has not been reached.
- (15) For the purposes of paragraphs (10) and (11), the "eligibility cessation date" in relation to a person is to be determined according to the formula—

$$A - 2 \times M$$

where—

A is 1st April 2022;

M is the number of months (rounded up to the nearest whole month) by which the person's age on 1st April 2012 is less than 50.

- (16) For the purposes of paragraphs (13) and (14), the "eligibility cessation date" in relation to a person is to be determined according to the formula—

$$A - (2 \times N)$$

where—

A is 1st April 2022;

N is the number of months (rounded up to the nearest whole month) by which the person's age on 1st April 2012 is less than 45.

- (17) Paragraph (18) applies to a person where in the opinion of the Scottish Ministers—
- (a) that person was previously an active member of a health service scheme corresponding to this Section of the scheme;
 - (b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section, and
 - (c) pursuant to those provisions, the member would have been eligible to re-join that corresponding scheme if the member had returned to NHS employment for the purposes of that scheme on the day the member commenced NHS employment within the meaning of these Regulations.

(18) The Scottish Ministers may permit a person referred to in paragraph (17) to join this Section of the scheme and, for the purposes of paragraphs (5) to (16), the member's previous pensionable employment under the corresponding health service scheme referred to in paragraph (17) will be treated as if it were previous pensionable employment under this Section of the scheme."

Amendment of regulation E12

4. In paragraph (16) of regulation E12 (preserved pension), for the definition of "NHS employment" substitute—

"“NHS employment” does not include employment with an employing authority in respect of which a member is eligible to join—

- (a) the 2008 Section; or
- (b) the 2015 Scheme and that member's service in this Section does not qualify as, or has ceased to be, pensionable service to which paragraph 1(2)(i) and (ii) or paragraph 2(i) and (ii) of Schedule 7 (final salary link) to the 2013 Act applies;".

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Amendment of regulation R7

5. After paragraph (5) of regulation R7 (former members of health service schemes), add—
- “(6) Subject to paragraphs (8) and (9), a member who leaves employment in respect of which the member qualified for benefit under a health service scheme and who joins the 2015 Scheme may, by notice in writing, require the Scottish Ministers to credit the member with a relevant period of pensionable service (together with the rights attaching to that service) under this Section of the scheme.
- (7) That relevant period of pensionable service is calculated as if—
- (a) the employment to which the health service scheme applied were NHS employment; and
- (b) the member’s contributions to that health service scheme were contributions to this Section of the scheme.
- (8) The member may only exercise the right referred to in paragraph (6) if—
- (a) a transfer payment is made from the health service scheme to this Section of the scheme; and
- (b) on the day the member becomes an active member of the 2015 Scheme, paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which that transfer value payment is made.
- (9) A notice referred to in paragraph (6) must be addressed to the Scottish Ministers and given within 1 year after joining the 2015 Scheme.”.

New regulation U5

6. At the end of Part U (administrative matters), insert—

“Benefit information statements

- U5.**—(1) The Scottish Ministers must provide a benefit information statement to each member in accordance with—
- (a) section 14 (information about benefits) of the 2013 Act; and
- (b) any Treasury directions given from time to time pursuant to that section.
- (2) Paragraph (1) does not provide a right for a member to request a benefit information statement.
- (3) The Scottish Ministers are only required to provide a member with one benefit information statement per scheme year.
- (4) A benefit information statement provided pursuant to paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013⁽¹⁾ for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.”.

Amendment of Schedule 1

7. For paragraph 24 of Schedule 1 (medical and dental practitioners), substitute—
- “**24.** Regulation E12(16) is modified so that—
- (a) paragraph (b) in the definition of “NHS employment” reads—

(1) S.I. 2013/2734.

- “(b) the 2015 Scheme and that member has a break of service under the 2015 Regulations that exceeds five years;” and
- (b) the definition of “regular employment of like duration” reads—
 - ““regular employment of like duration” 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 2

Amendment of the 2013 Regulations

General

8. The 2013 Regulations are amended in accordance with the remaining paragraphs of this Part.

Amendment of regulation 2.B.1

- 9.—(1) In regulation 2.B.1 (eligibility: general)—
- (a) in paragraph (1), after “scheme” insert “on or after 1st April 2015”; and
 - (b) for paragraphs (3) to (6), substitute—
 - “(3) Condition B is that the person—
 - (a) enters NHS employment on or after 1st April 2008 and has service (“relevant service”) as an active member of this Section of the scheme—
 - (i) on or before 1st April 2012; or
 - (ii) after 1st April 2012, but only where that service is pursuant to the provisions of Chapter 2.K;
 - (b) has not had a break in service for any one period of five years or more ending in the period starting on 2nd April 2012 and finishing on 1st April 2015; and
 - (c) meets all of the “other Section conditions” (see paragraph (5)).
 - (4) Condition C is that the person has not reached the age of 75 and was born on, or before, 31st August 1960.
 - (5) The “other Section conditions” are that—
 - (a) the person has not received a repayment of contributions under regulation 2.C.18 in respect of their relevant service;
 - (b) the person’s rights under this Section of the scheme in respect of their relevant service have not been extinguished under regulation 2.F.7;
 - (c) the person is not entitled to a repayment of contributions under regulation 2.C.18 by virtue of paragraph (2)(a) to (c) of that regulation.”.

Amendment of regulation 2.B.3

10. After paragraph (1) of regulation 2.B.3 (restrictions on eligibility: general), insert—
- “(1A) A person who was born on or after 1st September 1960 is not eligible to be an active member of this Section of the scheme in respect of service in NHS employment on or after 1st April 2015.

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(1B) A person is not eligible to be an active member of this Section of the scheme if that person has had a break in service ending on or after 2nd April 2012, and any of the following apply—

- (a) that break in service is for any one period of five years or more;
- (b) that person receives a repayment of contributions under regulation 2.C.18 in respect of the person's service before that break (see regulation 2.B.1(3)(a));
- (c) that person becomes entitled to a repayment of contributions under regulation 2.C.18 by virtue of paragraph (2)(a) to (c) of that regulation in respect of the person's service before that break; or
- (d) that person's rights under this Section of the scheme in respect of service before that break have been extinguished under regulation 2.F.7 because a transfer value payment is made in respect of them.

(1C) A person who on 1st April 2012 has attained the age of 55 may not contribute to or accrue further pensionable service under this Section of the scheme unless that person—

- (a) is on 1st April 2015 an active member of this Section of the scheme in accordance with regulation 2.B.1; or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1D) Paragraph (1E) applies to a person—

- (a) who on 1st April 2012 has attained the age of 51 years and 7 months but has not attained the age of 55; and
- (b) whose eligibility cessation date has not been reached (see paragraph (1F)).

(1E) A person referred to in paragraph (1D) may not contribute to or accrue further pensionable service under this Section of the scheme unless that person—

- (a) is on 1st April 2015 an active member of this Section of the scheme in accordance with regulation 2.B.1; or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1F) For the purposes of paragraph (1D), a person's eligibility cessation date is to be determined according to the formula—

$$A - (2 \times T)$$

where—

A is 1st April 2022;

T is the number of months (rounded up to the nearest whole month) by which the person's age on 1st April 2012 is less than 55.

(1G) For the purposes of paragraphs (1C)(b) and (1E)(b), any break in service where the member was in pensionable service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(1H) Paragraph (1I) applies to a person where in the opinion of the Scottish Ministers—

- (a) that person was previously an active member of a corresponding 2008 scheme;
- (b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section, and
- (c) pursuant to those provisions, the member would have been eligible to re-join that corresponding scheme if the member had returned to NHS employment for the

purposes of that scheme on the day the member commenced NHS employment within the meaning of these Regulations.

(1I) (The Scottish Ministers may permit a person referred to in paragraph (1H) to join this Section of the scheme and, for the purposes of paragraphs (1C) to (1G), the member's previous pensionable employment under the corresponding scheme referred to in paragraph (1H) will be treated as if it were previous pensionable employment under this section of the Scheme.

(1J) (Paragraph (1K) applies to a person where in the opinion of the Scottish Ministers—

- (a) that person was previously an active member in respect of service in an existing scheme (within the meaning of Schedule 5 to the 2013 Act);
- (b) that person is not receiving a pension in respect of that service on the relevant day;
- (c) the regulations of that existing scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section;
- (d) pursuant to those provisions, the person would have been eligible to be an active member of the existing scheme if the member had returned to employment for the purposes of that scheme on the relevant day; and
- (e) the member would, if the member's previous service in the existing scheme had been previous service under this Section of the scheme, have been eligible for active membership of this Section of the scheme on the relevant day pursuant to paragraphs (1A) to (1G).

(1K) The Scottish Ministers may permit a person referred to in paragraph (1J) to join this Section of the scheme and, for the purposes of paragraphs (1C) to (1G), the member's previous service as an active member under the existing scheme referred to in paragraph (1J) will be treated as if it were previous service as an active member of this Section of the scheme.

(1L) For the purposes of paragraphs (1J) and (1K) "the relevant day" is the day the member commences NHS employment for the purposes of these Regulations.

(1M) A person referred to in paragraph (1C), (1E), (1I) or (1K) may elect, using a form provided by the Scottish Ministers, not to make contributions or accrue further service under this Section of the scheme in accordance with whichever of those paragraphs apply, but instead (where eligible) to become an active member of the 2015 Scheme.

(1N) Such an election—

- (a) is irrevocable;
- (b) must be given to the Scottish Ministers before the date specified by the Scottish Ministers in the election form;
- (c) is to be treated as having been given on the date the election form is received by the Scottish Ministers.

(1O) The date referred to in paragraph (1N)(b) must be a date that is at least three months later than the date on which the Scottish Ministers provided the member with an election form.

(1P) An election shall be effective from the first day of the member's pensionable employment in the 2008 Section falling on or after 1st April 2015, and from that date—

- (a) that member is to be treated as if that member had been an active member of the 2015 Scheme; and

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- (b) contributions made in respect of the member in the 2008 Section shall be treated as if they had been contributions made in respect of that member in the 2015 Scheme.

(1Q) The Scottish Ministers may allow a member to exercise an election after the date specified under paragraph (1N)(b) where the Scottish Ministers consider that the member has not had a reasonable opportunity to consider whether to exercise an election before that date.”.

Amendment of regulation 2.D.13

11. In regulation 2.D.13 of the 2013 Regulations (exceptions to requirement that NHS employment must have ceased—

- (a) in paragraph (1), after “(2)” insert “or (2A)”;
(b) after paragraph (2), insert—

“(2A) This paragraph applies if the member is in employment with an employing authority in respect of which the member is eligible to join the 2015 Scheme and that member’s service in this Section does not qualify as, or has ceased to be, pensionable service to which paragraph 1(2)(i) and (ii) or paragraph 2(i) and (ii) of Schedule 7 (final salary link) to the 2013 Act applies.”; and

- (c) for paragraph (3), substitute—

“(3) In paragraph (1), “relevant service” means—

- (a) the pensionable service referred to in paragraph (2)(b) in respect of which the member is a deferred member; or
(b) the service in this Section referred to in paragraph (2A).”.

Amendment of regulation 2.F.9

12. For sub-paragraph (c) of paragraph (1) of regulation 2.F.9 (procedure for applications under regulation 2.F.8), substitute—

“(c) may only be made—

- (i) during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of this Section of the scheme and before the applicant reaches the age of 65; or
(ii) where the applicant is not eligible to be an active member of this Section of the scheme and the application is made in respect of a transfer from a corresponding 2008 scheme, during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of the 2015 Scheme if on that day paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment will be made;”.

Substitution of regulation 2.F.13

13. For regulation 2.F.13 (public sector transfer arrangements), substitute—

“Public sector transfer arrangements

2.F.13.—(1) This Chapter applies to a transfer where—

- (a) the member is an active member of the 2015 Scheme;

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- (b) the member makes an application under regulation 2.F.8 for a transfer value payment in respect of some or all of the rights that have accrued to or in respect of the member under—
 - (i) an existing scheme listed in Schedule 5 to the 2013 Act;
 - (ii) an existing public body scheme listed in Schedule 10 to that Act;
 - (iii) another occupational pension scheme that participates in the Public Sector Transfer Club;
- (c) the application under regulation 2.F.8 is made within one year beginning with the day the member became eligible to be an active member of the 2015 Scheme and before the member reaches the member’s normal pension age in the 2015 Scheme;
- (d) the transfer value payment is made and accepted under the public sector transfer arrangements; and
- (e) on the day the transfer is completed, paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment is made.

(2) This Chapter also applies in the case of any other transfer to which the public sector transfer arrangements apply (not being a transfer referred to in paragraph (1)) as it applies in other cases, except to the extent that—

- (a) any provision in this Chapter provides otherwise; or
- (b) the arrangements themselves make different provision.”.

New regulation 2.J.15

14. After regulation 2.J.14 (employing authority and certain member record keeping and contribution estimates), insert—

“Benefit information statements

2.J.15.—(1) The Scottish Ministers must provide a benefit information statement to each member in accordance with—

- (a) section 14 (information about benefits) of the 2013 Act; and
- (b) any Treasury directions given from time to time pursuant to that section.

(2) Paragraph (1) does not provide a right for a member to request a benefit information statement.

(3) The Scottish Ministers are only required to provide a member with one benefit information statement per scheme year.

(4) A benefit information statement provided pursuant to paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.”.

Amendment of regulation 3.B.1

15. In regulation 3.B.1 (eligibility: general)—

- (a) in paragraph (1), after “scheme” insert “on or after 1st April 2015”; and
- (b) for paragraphs (3) to (6), substitute—

“(3) Condition B is that the person—

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- (a) enters practitioner service on or after 1st April 2008 and has service (“relevant service”) as an active member of this Section of the scheme—
 - (i) on or before 1st April 2012, or
 - (ii) after 1st April 2012, but only where that service is pursuant to the provisions of Chapter 3.K;
 - (b) has not had a break in service for any one period of five years or more ending in the period starting on 2nd April 2012 and finishing on 1st April 2015; and
 - (c) meets all of the “other Section conditions” (see paragraph (5)).
- (4) Condition C is that the person has not reached the age of 75 and was born on or before 31st August 1960.
- (5) The “other Section conditions” are that—
- (a) the person has not received a repayment of contributions under regulation 3.C.16 in respect of relevant service;
 - (b) the person’s rights under this Section of the scheme in respect of relevant service have not been extinguished under regulation 3.F.7;
 - (c) the person is not entitled to a repayment of contributions under regulation 3.C.16 by virtue of paragraph (2)(a) to (c) of that regulation.”.

Amendment of regulation 3.B.3

16. After paragraph (1) of regulation 3.B.3 (restrictions on eligibility: general), insert—

“(1A) A person who was born on or after 1st September 1960 is not eligible to be an active member of this Section of the scheme in respect of practitioner service on or after 1st April 2015.

(1B) A person is not eligible to be an active member of this Section of the scheme if that person has had a break in service ending on or after 2nd April 2012, and any of the following apply—

- (a) that break in service is for any one period of five years or more;
- (b) that person receives a repayment of contributions under regulation 3.C.16 in respect of service before that break (see regulation 3.B.1(3)(a));
- (c) that person becomes entitled to a repayment of contributions under regulation 3.C.16 by virtue of paragraph (2)(a) to (c) of that regulation in respect of service before that break; or
- (d) that person’s rights under this Section of the scheme in respect of service before that break have been extinguished under regulation 3.F.7 because a transfer value payment is made in respect of them.

(1C) A person who on 1st April 2012 has attained the age of 55 may not contribute or accrue further pensionable service under this Section of the scheme unless that person—

- (a) is on 1st April 2015 an active member of this Section of the scheme in accordance with regulation 3.B.1; or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1D) Paragraph (1E) applies to a person—

- (a) who on 1st April 2012 has attained the age of 51 years and 7 months but has not attained the age of 55; and
- (b) whose eligibility cessation date has not been reached (see paragraph (1F)).

(1E) A person referred to in paragraph (1D) may not contribute or accrue further pensionable service under this Section of the scheme unless that person—

- (a) is on 1st April 2015 an active member of this Section of the scheme in accordance with regulation 3.B.1; or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1F) For the purposes of paragraph (1D), a person's eligibility cessation date is to be determined according to the formula—

$$A - (2 \times T)$$

where—

A is 1st April 2022;

T is the number of months (rounded up to the nearest whole month) by which the person's age on 1st April 2012 is less than 55.

(1G) For the purposes of paragraphs (1C)(b) and (1E)(b), any break in service where the member was in pensionable service in an existing scheme (within the meaning of Schedule 5 to the 2013 Act) is to be disregarded.

(1H) Paragraph (1I) applies to a person where, in the opinion of the Scottish Ministers—

- (a) that person was previously an active member of a corresponding 2008 scheme;
- (b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section, and
- (c) pursuant to those provisions, the member would have been eligible to re-join that corresponding scheme if the member had returned to NHS employment for the purposes of that scheme on the day the member commenced NHS employment within the meaning of these Regulations.

(1I) The Scottish Ministers may permit a person referred to in paragraph (1H) to join this Section of the scheme and, for the purposes of paragraphs (1C) to (1G), the member's previous pensionable employment under the corresponding scheme referred to in paragraph (1H) will be treated as if it were previous pensionable employment under this Section of the scheme.

(1J) (Paragraph (1K) applies to a person where, in the opinion of the Scottish Ministers—

- (a) that person was previously an active member in respect of service in an existing scheme (within the meaning of Schedule 5 to the 2013 Act);
- (b) that person is not receiving a pension in respect of that service on the relevant day;
- (c) the regulations of that existing scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section;
- (d) pursuant to those provisions, the person would have been eligible to be an active member of the existing scheme if the member had returned to employment for the purposes of that scheme on the relevant day; and
- (e) the member would, if the member's previous service in the existing scheme had been previous service under this Section of the scheme, have been eligible for active membership of this Section of the scheme on the relevant day pursuant to paragraphs (1A) to (1G).

(1K) The Scottish Ministers may permit a person referred to in paragraph (1J) to join this Section of the scheme and, for the purposes of paragraphs (1C) to (1G), the member's

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previous service as an active member under the existing scheme referred to in paragraph (1J) will be treated as if it were previous service as an active member of this Section of the scheme.

(1L) For the purposes of paragraphs (1J) and (1K), “the relevant day” is the day the member commences NHS employment for the purposes of these Regulations.

(1M) A person referred to in paragraph (1C), (1E), (1I) or (1K) may elect, using a form provided by the Scottish Ministers, not to make contributions or accrue further service under this Section of the scheme in accordance with whichever of those paragraphs apply, but instead (where eligible) to become an active member of the 2015 Scheme.

(1N) Such an election—

- (a) is irrevocable;
- (b) must be given to the Scottish Ministers before the date specified by them in the election form;
- (c) is to be treated as having been given on the date the election form is received by the Scottish Ministers.

(1O) The date referred to in paragraph (1N)(b) must be a date that is at least three months later than the date on which the Scottish Ministers provided the member with an election form.

(1P) An election shall be effective from the first day of the member’s pensionable employment in the 2008 Section falling on or after 1st April 2015, and from that date—

- (a) that member is to be treated as if that member had been an active member of the 2015 Scheme; and
- (b) contributions made in respect of the member in the 2008 Section shall be treated as if they had been contributions made in respect of that member in the 2015 Scheme.

(1Q) The Scottish Ministers may allow a member to exercise an election after the date specified under paragraph (1N)(b) where the Scottish Ministers consider that the member has not had a reasonable opportunity to consider whether to exercise an election before that date.”.

New regulation 3.D.18

17. After regulation 3.D.17 , insert—

“Exceptions to requirement that NHS employment must have ceased

3.D.18.—(1) A member is not prevented from becoming entitled to a pension under regulation 3.D.1 in respect of pensionable service as regards which the member is a deferred member because of continuing in NHS employment if paragraph (2) applies.

(2) This paragraph applies if the member—

- (a) is in employment with an employing authority in respect of which the member is eligible to join the 2015 Scheme; and
- (b) has a break of service under the 2015 Regulations that exceeds five years.”.

Amendment of regulation 3.F.9

18. For sub-paragraph (c) of paragraph (1) of regulation 3.F.9 (procedure for applications under regulation 3.F.8), substitute—

- “(c) may only be made—
- (i) during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of this Section of the scheme and before the applicant reaches the age of 65, or
 - (ii) where the applicant is not eligible to be an active member of this Section of the scheme and the application is made in respect of a transfer from a corresponding 2008 scheme during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of the 2015 Scheme, if on that day paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment will be made;”.

Substitution of regulation 3.F.13

19. For regulation 3.F.13 (public sector transfer arrangements), substitute—

“Public sector transfer arrangements

3.F.13.—(1) This Chapter applies to a transfer where—

- (a) the member is an active member of the 2015 Scheme,
- (b) the member makes an application under regulation 3.F.8 for a transfer value payment in respect of some or all of the rights that have accrued to or in respect of the member under—
 - (i) an existing scheme listed in Schedule 5 to the 2013 Act;
 - (ii) an existing public body scheme listed in Schedule 10 to that Act;
 - (iii) another occupational pension scheme that participates in the Public Sector Transfer Club;
- (c) the application under regulation 3.F.8 is made within one year beginning with the day the member became eligible to be an active member of the 2015 Scheme and before the member reaches the member’s normal pension age in the 2015 Scheme;
- (d) the transfer value payment is made and accepted under the public sector transfer arrangements; and
- (e) on the day the transfer is completed, paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment is made.

(2) This Chapter also applies in the case of any other transfer to which the public sector transfer arrangements apply (not being a transfer referred to in paragraph (1)) as it applies in other cases, except to the extent that—

- (a) any provision in this Chapter provides otherwise; or
- (b) the arrangements themselves make different provision.”.

New regulation 3.J.15

20. After regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates), insert—

“Benefit information statements

3.J.15.—(1) The Scottish Ministers must provide a benefit information statement to each member in accordance with—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) section 14 (information about benefits) of the 2013 Act; and
 - (b) any Treasury directions given from time to time pursuant to that section.
- (2) Paragraph (1) does not provide a right for a member to request a benefit information statement.
- (3) The Scottish Ministers are only required to provide a member with one benefit information statement per scheme year.
- (4) A benefit information statement provided pursuant to paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.”.