

SCHEDULE 2

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.

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- “(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.””