
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 174

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

PART 3

BENEFITS FOR PRACTITIONERS, ETC.

CHAPTER 3.C

CONTRIBUTIONS

Basic contributions by members

Contributions by members

3.C.1.—(1) Each active member must make contributions to this Section of the scheme (“member contributions”) in respect of the member’s pensionable earnings in accordance with regulation 3.C.2 (members’ contribution rate).

(2) Contributions under paragraph (1) must be paid at the rate specified in regulation 3.C.2 and in accordance with this Chapter.

(3) A member who is absent from service in circumstances within regulation 3.A.4(1) to (4) (pensionable service: breaks in service) may make contributions to this Section of the scheme in respect of the member’s pensionable earnings in accordance with that regulation and regulation 3.C.2 (members’ contribution rate).

Members’ contribution rate

3.C.2.—(1) Contributions under regulation 3.C.1(1) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in paragraph (13) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member’s pensionable earnings fall.

(3) The Scottish Ministers must, with the consent of the Treasury, determine the pensionable earnings bands and contribution percentage rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable earnings bands or contribution percentage rates, the Scottish Ministers must consider the advice of the scheme actuary.

(5) If, in respect of a scheme year, a practitioner has—

- (a) certified the practitioner’s pensionable earnings in accordance with regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates) and forwarded a record of those earnings to the contracting Health Board or someone appointed to act on its behalf; or

- (b) was not required to certify the practitioner's earnings in accordance with that regulation but the contracting Health Board (or, in the case of a dentist or an ophthalmic medical practitioner, the Health Board with whom they have an arrangement to provide general dental services or ophthalmic services) or someone appointed to act on its behalf or employing authority has the figure that represents the practitioner's pensionable earnings for that scheme year,

contributions payable for that scheme year, must be those specified in column 2 of the relevant table in paragraph (13) in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to aggregate of—

- (i) the certified or final pensionable earnings from all practitioner sources; and
- (ii) any additional pensionable earnings the practitioner is treated as having received during a break in service in accordance with regulation 3.A.8 (pensionable earnings: breaks in service).

(6) Subject to paragraph (7), if paragraph (5) does not apply to a practitioner in respect of a scheme year, contributions are payable for that scheme year at the rate in column 2 of the relevant table in paragraph (13), on the basis of whichever of the following the host Health Board or someone appointed to act on its behalf considers the most appropriate in the circumstances—

- (a) the amount of the practitioner's earnings that have been agreed between the contracting Health Board or someone appointed on its behalf or employer, or employing authority on the one hand and the practitioner on the other hand;
- (b) the amount of the practitioner's earnings that corresponds to the practitioner's most recent certified or final pensionable earnings referred to in paragraph (5); or
- (c) the amount of the practitioner's earnings that corresponds to the estimate of the practitioner's pensionable earnings from all practitioner sources for that year.

(7) If paragraph (6) applies to a practitioner in respect of a scheme year and paragraph (5)(a) or (b) is subsequently satisfied in respect of that scheme year, that practitioner must pay contributions at the rate determined in accordance with paragraph (5).

(8) A contracting Health Board (or, in the case of a dentist or an ophthalmic medical practitioner, the Health Board with whom they have an arrangement to provide general dental services or ophthalmic services) or someone appointed on its behalf or employing authority may adjust a practitioner's contribution rate for any scheme year determined in accordance with paragraph (6) or (9)—

- (a) by agreement between the contracting Health Board or someone appointed on its behalf or employing authority, on the one hand and the practitioner on the other hand; or
- (b) without such agreement, if the contracting Health Board or someone appointed to act on its behalf or employing authority, is satisfied that pensionable earnings will exceed the amount used to determine the contribution rate in accordance with those paragraphs.

(9) If a member is in practitioner service and concurrently in NHS employment in respect of which the member is liable to pay contributions in accordance with regulation 2.C.1, contributions payable in respect of the member's practitioner service must be determined under this Part and contributions payable in respect of the member's NHS employment must be determined under Part 2.

(10) In determining the contributions payable in accordance with paragraph (2), a contracting Health Board (or, in the case of a dentist or an ophthalmic medical practitioner, the Health Board with whom they have an arrangement to provide general dental services or ophthalmic services) or someone appointed to act on its behalf or the employing authority must take account of all pensionable earnings as a practitioner.

(11) The contracting Health Board or someone appointed to act on its behalf must apply the correct member contribution rate in terms of paragraph (5) or (6) whichever is appropriate once in receipt of certified earnings for the scheme year from the member.

(12) If, apart from this paragraph, the earnings for a scheme year in respect of a member's practitioner service would not be a whole number of pounds, those earnings must be rounded down to the nearest whole pound.

(13) In this regulation, "the relevant table" means—

- (a) in respect of the 2012-2013 scheme year, table 1; and
- (b) in respect of the 2013-2014 scheme year, table 2.

Table 1: Scheme year 2012-2013

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5.0%
£21,176 to £26,557	6.5%
£26,558 to £48,982	8.0%
£48,983 to £69,931	8.9%
£69,932 to £110,273	9.9%
£110,274 to any higher amount	10.9%

Table 2: Scheme year 2013-2014

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £15,431	5.0%
£15,432 to £21,387	5.3%
£21,388 to £26,823	6.8%
£26,824 to £49,472	9.0%
£49,473 to £70,630	11.3%
£70,631 to £111,376	12.3%
£111,377 to any higher amount	13.3%

Contributions by employing authorities

Contributions by employing authorities: general

3.C.3.—(1) The employing authority of a member who is an active member of this Section of the scheme under this Part must contribute to the scheme, in respect of the pensionable earnings of that member, at the rate specified in paragraph (4) ("the employer's standard rate").

(2) In specifying the employer's standard rate, the Scottish Ministers must—

- (a) obtain the consent of the Treasury; and
- (b) take account of the advice of the scheme actuary and the cost of providing for any increase in pensions under the scheme as a result of orders made under the provisions of the

Pensions (Increase) Act 1971⁽¹⁾ and section 59 (increase of official pensions) of the Social Security Pensions Act 1975⁽²⁾.

(3) If, for any period, a person holds more than one employment with an employing authority in respect of which the person is an active member of this Section of the scheme, this regulation applies in respect of each of those employments as if it were the only employment held.

(4) The employer's standard rate is 13.5%.

(5) Any contributions payable under this regulation must be paid to the Scottish Ministers.

Guarantees, indemnities and bonds

3.C.4.—(1) This regulation applies if—

(a) an employing authority fails to pay contributions in accordance with regulation 3.C.3 (contributions by employing authorities: general); and

(b) the employing authority is—

(i) a GMS practice;

(ii) an HBPMS practice;

(iii) a section 17C agreement provider; or

(iv) an OOH provider.

(2) The Scottish Ministers may require the employing authority to have in force a guarantee, indemnity or bond which provides for payment to the Scottish Ministers, should that authority fail to meet them, of all future liabilities of the authority under—

(a) this Part; or

(b) the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998⁽³⁾.

(3) The guarantee, indemnity or bond must be in such form, in respect of such an amount and provided by such a person as the Scottish Ministers approve for the purpose.

Payment of contributions

Payment of contributions

3.C.5.—(1) Contributions under this Part must be paid in respect of all periods of practitioner service—

(a) until the member completes 45 years pensionable service; or

(b) where the notice required by regulation 3.A.3(3) (meaning of “pensionable service”) has been received, until the member ceases practitioner service.

(2) Except where paragraph (3) applies, principal practitioners must pay C1 contributions to the contracting Health Board or someone appointed to act on its behalf, and dental practitioners must pay such contributions to the Common Services Agency for the Scottish Health Service (constituted by section 10 of the 1978 Act).

(1) 1971 c.56.

(2) 1970 c.60. Section 59 was amended by section 11 of, and paragraph 20 of Schedule 3 to, the Social Security Act 1979 (c.18), paragraph 33 of Schedule 5, and Schedule 6, to the Social Security Act 1985 (c.53), section 9(8) of the Social Security Act 1986 (c.50), sections 1(7) and 5 of the Pensions (Miscellaneous Provisions) Act 1990 (c.7), paragraph 34 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c.6) and paragraph 9(1) of Schedule 8 to the Pensions Schemes Act 1993 (c.48).

(3) S.S.I. 1998/1451, amended by S.I. 2001/3649 and S.S.I. 2001/465, 2004/62, 2005/544, 2006/307, 2008/225, 2010/22 and 369, 2011/364 and 2012/163.

(3) Where a principal practitioner is engaged under a contract of employment or a contract for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, that authority must—

- (a) deduct C1 contributions from any pensionable earnings it pays to the practitioner; and
- (b) where it is not also the contracting Health Board, pay those contributions to that Health Board or to someone appointed to act on its behalf.

(4) Subject to paragraph (5), where a principal practitioner is—

- (a) an employing authority which is a GMS practice, a section 17C agreement provider or an HBPMS contractor; or
- (b) a shareholder or partner in such an employing authority,

that employing authority must pay C3 contributions to the contracting Health Board, or someone appointed to act on its behalf.

(5) Where the principal practitioner is a shareholder or partner in more than one employing authority referred to in paragraph (4), each employing authority must pay C3 contributions on any pensionable earnings it pays to the practitioner or, as the case may be, on the practitioner's share of the partnership profits, to the contracting Health Board, or someone appointed to act on its behalf.

(6) If paragraph (3) applies (but paragraph (4) does not) and the employing authority referred to in that paragraph is—

- (a) not the contracting Health Board, that authority must pay C3 contributions to that Board; or
- (b) is the contracting Health Board, that Board must pay C3 contributions to the Scottish Ministers in respect of any pensionable earnings it pays to the practitioner.

(7) Where an assistant practitioner (other than a locum practitioner) is engaged under a contract of employment or a contract for services by an employing authority, that authority must—

- (a) deduct C1 contributions from any pensionable earnings it pays to the assistant practitioner; and
- (b) where it is not also the contracting Board, pay those contributions to that Board, or someone appointed to act on its behalf.

(8) In the cases of an assistant practitioner, if paragraph (7) applies, and the employing authority referred to in that paragraph—

- (a) is not the contracting Health Board, that authority must pay C3 contributions to the contracting Health Board or to someone appointed to act on its behalf; or
- (b) is the contracting Health Board that Board must pay C1 and C3 contributions to the Scottish Ministers in respect of any pensionable earnings it pays to such a practitioner.

(9) Locum practitioners must pay C1 contributions to the contracting Health Board, or someone appointed to act on its behalf.

(10) If a locum practitioner is liable to pay contributions under paragraph (9) in respect of pensionable locum work done for an employing authority which is not—

- (a) the contracting Health Board;
- (b) a GMS practice;
- (c) a section 17C agreement provider; or
- (d) an HBPMS contractor,

that employing authority must pay C1 contributions to the contracting Health Board, or someone appointed to act on its behalf.

(11) If contributions are payable by a locum practitioner under paragraph (9) in respect of pensionable locum work carried out for an employing authority which is—

- (a) a contracting Health Board;
- (b) a GMS practice;
- (c) a section 17C agreement provider practice; or
- (d) an HBPMS contractor,

the contracting Health Board must pay C3 contributions in respect of such a practitioner.

(12) C1 Contributions that are required to be paid to the contracting Health Board in accordance with this regulation must be paid to that Board or someone appointed on its behalf not later than the 7th day of the month following the month in which the earnings were paid.

(13) Where an employing authority—

- (a) is not the contracting Health Board, it must be a function of that employing authority to provide the contracting Board or someone appointed to act on its behalf, with a record of any—

- (i) pensionable earnings paid by it to a practitioner; and
- (ii) contributions deducted by it in accordance with paragraph (3) or (7),

not later than the 7th day of the month following the month in which the earnings were paid; or

- (b) is the contracting Health Board, or someone appointed on its behalf, that has deducted contributions in accordance with paragraph (3) or (7) and is liable to pay C3 contributions in respect of any pensionable earnings it pays to a practitioner, it must be a function of that Board to maintain a record of—

- (i) the matters referred to in sub-paragraph (a)(i) and (ii);
- (ii) any contributions paid to it by a principal practitioner; and
- (iii) any contributions paid to it by a locum practitioner.

(14) It must be a function of the contracting Health Board, or someone appointed to act on its behalf, to pay the contributions—

- (a) paid to it by a principal practitioner or locum practitioner;
- (b) paid to it by another employing authority; and
- (c) it is liable to pay by virtue of paragraphs (7)(b) and (8)(b),

in accordance with the provisions of this paragraph, to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid.

(15) Without prejudice to any other method of recovery, in respect of C1 contributions, if—

- (a) a principal practitioner, assistant practitioner or locum practitioner has failed to pay contributions; or
- (b) an employing authority has failed to deduct such contributions,

in accordance with this paragraph, the Scottish Ministers may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member entitled to them if the circumstances in paragraph (16) are met.

(16) The conditions described in paragraph (15) are that—

- (a) the member agrees to such a deduction; and
- (b) the deduction is to the member's advantage.

(17) In this regulation—

“C1 contributions” means contributions payable under regulation 3.C.1 (contributions by members) by a practitioner under this Section of the scheme; and

“C3 contributions” means contributions payable under regulation 3.C.3 (contributions by employing authorities: general) by an employing authority in respect of a practitioner.

Additional contributions to purchase additional pensions

Member’s option to pay additional periodical contributions to purchase additional pension

3.C.6.—(1) An active member may opt to make additional periodical contributions by monthly instalments during the contribution option period—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 3.D (members’ retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for three or 6 months under Chapter 3.E (death benefits)); or
- (b) to increase by a specified amount those benefits so payable and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 3.E (death benefits) in respect of the member.

(2) A member may exercise the option under paragraph (1) more than once.

(3) If a member exercises the option under paragraph (1), any regular additional contributions must be deducted from the member’s earnings, and paid to the Scottish Ministers, in the same manner as is specified in respect of C1 contributions (within the meaning of regulation 3.C.5 (payment of contributions) in relation to that member.

(4) The annual amount of the periodical contributions payable at the beginning of the contribution option period must be—

- (a) not less than the minimum amount; and
- (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount.

(5) In paragraph (4) “the minimum amount” means the amount that would, in accordance with tables prepared for the Scottish Ministers by the scheme actuary for the scheme year in which the contributions are paid, be the amount of the contributions required to secure an increase in the member’s pension of—

- (a) £250; or
- (b) such other amount as the Scottish Ministers may for the time being determine,

assuming that the contributions are made in accordance with the option for the remainder of the option period.

(6) The tables referred to in paragraph (5)—

- (a) may specify different amounts for different descriptions of members; and
- (b) may be amended during a scheme year,

but no such amendment affects the contributions payable during that year under any option, except an option under which contributions begin to be paid after the date on which the amendment takes effect.

(7) The total increase in the member’s pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation 3.C.8 (member’s option to pay lump sum contribution to purchase additional pension); or
- (b) contributions made under regulation 3.C.9 (payment of additional lump sum contributions by employing authority),

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine (taking into account any increase in the member's pension as a result of the exercise of an option in accordance with regulations 2.C.8 to 2.C.17 (additional contributions)).

(8) In this Part, "contribution option period" in relation to an option under this regulation means a period of whole years that—

- (a) is specified in the option;
- (b) begins with the pay period in respect of which the first contribution is made under the option;
- (c) is not less than one year nor more than 20 years; and
- (d) does not end later than the member's 65th birthday.

(9) In the case of a 2008 Section Optant, this regulation is subject to regulation 3.K.4.

Effect of member being absent or leaving and rejoining this Section of the scheme during the contribution option period

3.C.7.—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation 3.C.6 (option to pay additional periodical contributions) is—

- (a) absent from work because of illness or injury;
- (b) on maternity leave;
- (c) on adoption leave;
- (d) on paternity leave;
- (e) on parental leave; or
- (f) on a leave of absence of the kind mentioned in regulation 3.A.4(3) (pensionable service: breaks in service).

(2) If paragraph (1) applies—

- (a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation 3.C.1 (contributions by members); and
- (b) if the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation 3.C.1 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

(3) This paragraph applies if—

- (a) a member exercises the option under regulation 3.C.6;
- (b) the member ceases to be an active member during the contribution option period; and
- (c) the member becomes an active member again before the end of the period of 12 months beginning with the day on which the member ceased to be an active member.

(4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after becoming an active member again unless a repayment of contributions has been made to the member under regulation 3.C.16 (repayment of contributions).

(5) For the purposes of paragraph (4) it does not matter if the member has paid any of the repaid contributions back to the Scottish Ministers.

Member's option to pay lump sum contribution to purchase additional pension

3.C.8.—(1) An active member may opt to make a single lump sum contribution—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 3.D (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for three or 6 months under Chapter 3.E (death benefits)); or
 - (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 3.E (death benefits) in respect of the member.
- (2) A member may only make a contribution under this regulation of an amount that is—
 - (a) not less than the minimum amount; and
 - (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount.
- (3) In paragraph (2) "the minimum amount" means the amount that is, in accordance with tables prepared for the Scottish Ministers by the scheme actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member's pension of—
 - (a) £250; or
 - (b) such other amount as the Scottish Ministers may for the time being determine.
- (4) A member may exercise the option under paragraph (1) more than once.
- (5) If a member exercises an option under paragraph (1)—
 - (a) the additional contribution is payable by the member to the employing authority—
 - (i) by deduction from the member's earnings or otherwise; and
 - (ii) before the end of the period of one month beginning with the day on which the member is notified by the Scottish Ministers that the option is accepted; and
 - (b) the employing authority must pay it to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.
- (6) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—
 - (a) contributions made under regulation 3.C.6 (member's option to pay additional periodical contributions to purchase additional pension); or
 - (b) contributions made under regulation 3.C.9 (payment of additional lump sum contributions by employing authority),may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine taking into account any increase in the member's pension as a result of the exercise of an option in accordance with regulations 2.C.8 to 2.C.17 (additional contributions).
- (7) In the case of a 2008 Section Optant, this regulation is subject to regulation 3.K.4.

Payment of additional lump sum contributions by employing authority

3.C.9.—(1) The employing authority of an active member may opt to make a single lump sum contribution—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 3.D (members' retirement benefits) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for three or 6 months under Chapter 3.E (death benefits)); or

- (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 3.E (death benefits) in respect of the member.
- (2) An employing authority may only make a contribution under this regulation of an amount that is—
 - (a) not less than the minimum amount (as defined in regulation 3.C.8(3) (option to pay lump sum contribution)); and
 - (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount (as so defined).
- (3) An employing authority may only exercise the option under paragraph (1) with the member's consent, but may exercise it more than once in respect of the same member.
- (4) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—
 - (a) contributions made under regulation 3.C.6 (member's option to pay additional periodical contributions to purchase additional pension); or
 - (b) contributions made under regulation 3.C.8 (member's option to pay lump sum contribution to purchase additional pension),
 may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine taking into account any increase in the member's pension as a result of the exercise of an option in accordance with regulations 2.C.8 to 2.C.17 (additional contributions).
- (5) A contribution under this regulation must be paid by the employing authority to the Scottish Ministers within one month of the date on which the authority gave the Scottish Ministers notice under regulation 3.C.10(2) (exercise of options under regulations 3.C.6, 3.C.8 and 3.C.9).
- (6) In the case of a 2008 Section Optant, this regulation is subject to regulation 3.K.4.

Exercise of options under regulations 3.C.6, 3.C.8 and 3.C.9

- 3.C.10.**—(1) A member exercising an option under regulation 3.C.6 (option to pay additional periodical contributions) or 3.C.8 (option to pay lump sum contribution) must—
- (a) do so by giving notice in writing to the employing authority, giving such information as may be required; and
 - (b) at the same time, provide the Scottish Ministers with a copy of that notice.
- (2) An employing authority exercising an option under regulation 3.C.9 (payment of additional lump sum contributions by employing authority) must do so by giving notice in writing to the Scottish Ministers, giving such information as may be required.
- (3) An option under regulation 3.C.6, 3.C.8 or 3.C.9 may not be exercised during a period whilst the member is absent from work for any reason.
- (4) For the purposes of this Part—
- (a) a member is to be treated as exercising an option under regulation 3.C.6 or 3.C.8 on the date on which the employing authority receives the member's notice under paragraph (1); and
 - (b) an employing authority is to be treated as exercising an option under regulation 3.C.9 on the date on which the Scottish Ministers receive the authority's notice under paragraph (2).
- (5) The Scottish Ministers may refuse to accept an option exercised under regulation 3.C.6, 3.C.8 or 3.C.9 and must do so if not satisfied that—
- (a) the member is in good health; and

- (b) in the case of an option exercised under regulation 3.C.6, there is no reason why the member's health should prevent the member from paying the contributions for the whole contribution period.
- (6) If the Scottish Ministers refuse to accept such an option—
 - (a) they must give notice in writing of that fact—
 - (i) in the case of an option exercised under regulation 3.C.6 or 3.C.8, to the member; and
 - (ii) in the case of an option exercised under regulation 3.C.9, to the employing authority and the member; and
 - (b) this Part applies as if the option had not been exercised.
- (7) This Part also applies as if an option under regulation 3.C.8 or 3.C.9 had not been exercised if—
 - (a) in the case of an option under regulation 3.C.8, the payment is not received by the employing authority—
 - (i) before the end of the period of one month beginning with the day on which the Scottish Ministers notify the member of the acceptance of the option; or
 - (ii) if it is earlier, on or before the member's 65th birthday; and
 - (b) in the case of an option under regulation 3.C.9, the payment is not received by the Scottish Ministers—
 - (i) before the end of the period of one month beginning with the day on which the employing authority gave the Scottish Ministers notice under paragraph (2); or
 - (ii) if it is earlier, on or before the member's 65th birthday.

Cancellation of options under regulation 3.C.6

3.C.11.—(1) A member may cancel an option under regulation 3.C.6(1) (option to pay additional periodical contributions) by giving the employing authority notice in writing.

(2) If a member cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date on which the employing authority receives the notice and all subsequent pay periods.

(3) If it appears to the Scottish Ministers that the requirement in regulation 3.C.6(7) will not be met if the member continues to make periodical contributions under an option exercised under regulation 3.C.6, the Scottish Ministers may cancel the option by giving the member notice in writing.

(4) If the Scottish Ministers cancel such an option in accordance with paragraph (3), the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods.

(5) If, after the exercise of the option under regulation 3.C.8, the Scottish Ministers have reasonable grounds to believe that the member's health will prevent the member from paying contributions for the whole contribution period, the Scottish Ministers may cancel the option by giving the member notice in writing.

(6) If the Scottish Ministers cancel such an option in accordance with paragraph (5), the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods and any periodical payments made before the date of cancellation must be returned to the member.

Effect of payment of additional contributions

3.C.12.—(1) This regulation applies if—

- (a) an option is exercised by a member under regulation 3.C.6 (option to pay additional periodical contributions) and all the contributions to be made under the option are made; or
- (b) an option is exercised by a member under regulation 3.C.8 (option to pay lump sum contribution) or by a member's employing authority under regulation 3.C.9 (lump sum contributions by employing authority) and the lump sum payment is made.

(2) Subject to paragraph (9) the member's pension is to be increased by the full amount of the increase to be made in accordance with the terms of the option, after the final adjustment in that amount in accordance with regulation 3.C.15 (revaluation of increases bought under options).

(3) Paragraph (2) is without prejudice to any increase or reduction falling to be made in the total amount of the member's pension under Chapter 3.D (members' retirement benefits) or Chapter 3.K (2008 Section Optants) as a result of the member becoming entitled to payment of the pension before or after reaching age 65(4).

(4) In the case of an option under regulation 3.C.6(1)(b), 3.C.8(1)(b) or 3.C.9(1)(b), any pension payable under Chapter 3.E (death benefits) in respect of the member is to be increased by the appropriate amount.

(5) In paragraph (4), subject to regulations 3.C.13 (effect of death or early payment of pension) and 3.C.14(3) (effect of part payment of periodical contributions), "the appropriate amount" means—

- (a) in the case of a pension under regulation 3.E.1 (surviving dependent adult's pension) the amount of which is determined under regulation 3.E.3 (active members and non-contributing members) or 3.E.5 (deferred members), 37.5% of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));
- (b) in the case of a pension under regulation 3.E.1 the amount of which is determined under regulation 3.E.4 (pensioner members), 37.5% of the amount of the increase in the member's pension as a result of the option;
- (c) in the case of a pension under regulation 3.E.8 (surviving dependent child's pension) the amount of which is determined under regulation 3.E.10 (active members and non-contributing members) or 3.E.12 (deferred members), the appropriate fraction (within the meaning of regulation 3.E.10 or, as the case may be, regulation 3.E.12) of 75% of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3)); and
- (d) in the case of a pension under regulation 3.E.8 (surviving dependent child's pension) the amount of which is determined under regulation 3.E.11 (pensioner members), the appropriate fraction (within the meaning of that regulation) of 75% of the amount of the increase in the member's pension as a result of the option.

(6) Except as provided in regulation 3.D.5 (partial retirement: members aged at least 55), no separate claim is required as respects any additional pension payable by virtue of this regulation.

(7) This regulation is subject to regulation 3.C.13 (effect of death or early payment of pension).

(8) For the effect of the options under regulation 3.C.6 where this regulation does not apply, see regulation 3.C.14 (effect of part payment of periodical contributions).

(4) See regulations 3.D.3 to 3.D.5 and 3.K.20.

(9) Paragraph (10) applies only to an option under regulation 3.C.6(1)(a), 3.C.8(1)(a) or 3.C.9(1)(a), where a pension is to be paid for either three or 6 months at the same rate as the member's pension was being paid at the date of that member's death.

(10) Any increase in the member's pension must be included only in a benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations whilst it is being paid at the rate and for the duration of one of the periods referred to in paragraph (9).

(11) In the case of a 2008 Section Optant, this regulation is subject to regulation 3.K.4.

Effect of death or early payment of pension after option exercised under regulation 3.C.6, 3.C.8 or 3.C.9

3.C.13.—(1) If a member in respect of whom an option under regulation 3.C.6 (option to pay additional periodical contributions), 3.C.8 (option to pay lump sum contribution) or 3.C.9 (lump sum contributions by employing authority) has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation 3.C.6 or 3.C.8, to the member's personal representatives; and
 - (ii) in the case of an option under regulation 3.C.9, to the employing authority which made the contribution; and
- (b) regulation 3.C.12(4) (effect of payment of additional contributions) does not apply.

(2) If a member in respect of whom an option under regulation 3.C.6 has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation 3.C.12(4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation 3.C.6, 3.C.8 or 3.C.9 has been exercised becomes entitled to a pension under regulation 3.D.7 (early retirement on ill health: active members and non-contributing members) as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) regulation 3.C.12(2) and (4) does not apply; and
- (b) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation 3.C.6 or 3.C.8, to the member; and
 - (ii) in the case of an option under regulation 3.C.9, to the employing authority which made the contribution.

(4) Subject to regulation 3.C.11(5) and (6), if a member in respect of whom an option under regulation 3.C.6 has been exercised becomes entitled to a pension under regulation 3.D.7 before the end of the contribution option period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation 3.C.12(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation 3.C.6, 3.C.8 or 3.C.9 has been exercised—

- (a) becomes entitled to a pension under regulation 3.D.4 (early payment of pension with actuarial reduction) or 3.D.9 (early retirement on ill health: deferred members); or
- (b) becomes entitled to a pension under regulation 3.D.5 (partial retirement: members aged at least 55) before reaching age 65,

the increase in the member's pension under Chapter 3.D (members' retirement benefits) which would otherwise be due under regulation 3.C.12(2) or (4) is reduced.

(6) The amount of the reduction is such amount as the Scottish Ministers determine, after consulting the scheme actuary, to be appropriate by reason of the payment of the increase before the member reaches 65.

(7) This regulation is subject to regulation 3.C.14 (effect of part payment of periodical contributions).

Effect of part payment of periodical contributions

3.C.14.—(1) This regulation applies if—

- (a) the full number and amount of contributions due under an option under regulation 3.C.6 (option to pay additional periodical contributions) for the whole contribution option period are not made; and
- (b) regulation 3.C.13(1) to (4) (effect of death or early payment of pension) does not apply.

(2) The increase in the member's pension under Chapter 3.D is the appropriate proportion of the increase that would have been made under regulation 3.C.12(2) (effect of payment of additional contributions) if the full number and amount of contributions had been made (but taking account of regulation 3.C.13(5) if that applies).

(3) In the case of an option under regulation 3.C.6(1)(b), the increase in any benefit payable under Chapter 3.E (death benefits) in respect of the member is the appropriate proportion of the increase that would have been made under regulation 3.C.12(4) if the full number and amount of contributions had been made (but taking account of regulation 3.C.13(5) if that applies).

(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary may determine and specify in guidance given to the Scottish Ministers.

(5) In making a determination under paragraph (4), the scheme actuary must have regard to—

- (a) the proportion that the total contributions paid bears to the full amount of contributions due under an option under regulation 3.C.6 for the whole contribution option period; and
- (b) the preservation requirements.

(6) In the case of 2008 Section Optant this regulation is subject to regulation 3.K.4.

Revaluation of increases bought under options: members' pensions

3.C.15.—(1) Where an option under regulation 3.C.6 (option to pay additional periodical contributions), 3.C.8 (option to pay lump sum contribution) or 3.C.9 (lump sum contributions by employing authority) has been exercised, the final amount of the increase in a member's pension immediately before the beginning date for that pension must be determined in accordance with this regulation.

(2) Where the increase in pension is in respect of an option that was exercised less than two months before the increase becomes payable, the final amount is to be calculated in accordance with paragraph (4).

(3) Where the increase in pension is in respect of an option that was exercised two or more months before the increase in pension becomes payable, the final amount is to be calculated in accordance with whichever of paragraph (5) or (6) applies.

(4) The calculation referred to in paragraph (2) is as follows—

Step 1 —	Calculate the basic amount of the increase in accordance with regulations 3.C.12 to 3.C.14, to find the Step 1 amount.
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- Step 2 — Add to the Step 1 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971⁽⁵⁾ on a pension of the same amount as the Step 1 amount when it first falls into payment, to find the Step 2 amount.
- Step 3 — Divide the Step 2 amount by the Step 1 amount, to find the Step 3 factor.
- Step 4 — Divide the Step 1 amount by the Step 3 factor to find the final amount referred to in paragraph (1).
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(5) If the member exercised the option on or before 31st March 2011, the calculation referred to in paragraph (3) is as follows—

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- Step 1 — Calculate the basic amount of the increase in accordance with regulations 3.C.12 to 3.C.14, to find the Step 1 amount.
- Step 2 — Multiply the Step 1 amount by the retail prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.
- Step 3 — Divide the Step 2 amount by the retail prices index for the month in which the option was exercised, to find the Step 3 amount.
- Step 4 — Take the greater of the Step 1 amount and the Step 3 amount, to find the Step 4 amount.
- Step 5 — Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
- Step 6 — Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.
- Step 7 — Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).
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(6) If the member exercised the option on or after 1st April 2011, the calculation referred to in paragraph (3) is as follows—

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- Step 1 — Calculate the basic amount of the increase in accordance with regulations 3.C.12 to 3.C.14, to find the Step 1 amount.
- Step 2 — Multiply the Step 1 amount by the prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.
- Step 3 — Divide the Step 2 amount by the prices index for the month in which the option was exercised, to find the Step 3 amount.
- Step 4 — Take the greater of the Step 1 amount and the Step 3 amount, to find the Step 4 amount.
- Step 5 — Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971⁽⁶⁾ on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
- Step 6 — Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.
- Step 7 — Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).
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(5) [1971 c.56.](#)

(6) [1971 c.56.](#)

(7) In this regulation—

“the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of the Pensions (Increase) Act 1971 (see section 8(2) of that Act);

“the prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purposes of the Pensions (Increase) Act 1971.

Repayment of contributions

Repayment of contributions

3.C.16.—(1) The contributions made by a member under this Chapter are not repayable in any circumstances unless—

- (a) paragraph (2) applies; or
- (b) Chapter 5 (early leavers: cash transfer sums and contribution refunds) of Part 4 of the 1993 Act applies and the payment is made in accordance with that Chapter.

(2) This paragraph applies if—

- (a) a person who is not a pensioner member ceases to be an active member for the purposes of this Part and does not continue to be, or become, an active member for the purposes of Part 2 within 12 months of ceasing practitioner service;
- (b) the person does not fall within regulation 3.D.1(2)(a) to (d) (normal retirement pensions);
- (c) paragraph (1)(b) does not apply; and
- (d) the person claims repayment of contributions under this regulation by applying in writing to the Scottish Ministers.

(3) If paragraph (1)(b) applies, the person is entitled to be paid the amount to which the person is entitled under Chapter 5 of Part 4 of the 1993 Act, less—

- (a) such part of any contributions equivalent premium paid in respect of the person as is permitted by or under section 61 (deduction of contributions equivalent premium) of the 1993 Act; and
- (b) an amount equal to the income tax payable under section 205 (short service refund lump sum charge) of the 2004 Act as a result of the repayment.

(4) If paragraph (2) applies, the person is entitled to be paid an amount equal to the sum of the contributions made by the person under this Chapter, less the amounts mentioned in paragraph (3) (a) and (b).

(5) If a repayment is made under this regulation, the member’s rights under this Section of the scheme are extinguished unless the person or the person’s spouse or civil partner is entitled to a guaranteed minimum pension under this Section of the scheme and a contributions equivalent payment has not been paid.

(6) A person—

- (a) who is entitled to a repayment of contributions under this regulation; and
- (b) whose pensionable service did not cease because the person’s employment was terminated at the person’s request,

is entitled to interest on the amount of the repayment unless the person’s pensionable service ceased because the person’s employment was terminated by reason of misconduct or inefficiency.

(7) Subject to paragraphs (8) and (9), the interest is calculated on a compound basis at the rate of 2.5% per year, with yearly rests, for the period starting on 1st April after the contributions were paid and ending with the day the member leaves pensionable service.

(8) Paragraph (7) does not apply if paragraph (1)(b) applies and the person is entitled to a greater amount of interest under Chapter 5 (early leavers: cash transfer sums and contribution refunds) of Part 4 of the 1993 Act.

(9) So far as the contributions were paid under another scheme and were included in a transfer payment to this Section of the scheme—

- (a) interest for the period before the transfer payment was made is calculated in accordance with this Section of the scheme making the transfer payment (subject to any provision made in any enactment applicable to the transfer); and
- (b) paragraph (7) does not apply as respects that period.