
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 224

**The National Health Service Pension
Scheme (Scotland) Regulations 2008**

PART 3

BENEFITS FOR PRACTITIONERS, ETC.

CHAPTER 3.E

DEATH BENEFITS

Pensions for surviving adults

Amount of pensions under regulation 3.E.1: active members

3.E.3.—(1) In the case of an active member, for the period of 6 months beginning with the day after the member's death ("the initial period") the rate of the pension payable under regulation 3.E.1(1)(a) is equal to the average rate of the member's pensionable earnings during the last complete quarter before he or she died if that amount is greater than the amount of the pension payable to the surviving adult under this Chapter apart from this paragraph.

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

- (a) if the member has not reached the age of 65, is equal to the appropriate proportion of the upper tier ill health pension under regulation 3.D.7 to which the member would have been entitled if on the date of death the member had become entitled to such a pension; and
- (b) if the member has reached the age of 65, is equal to the appropriate proportion of the pension under regulation 3.D.1 (normal retirement pensions) to which the member would have been entitled if on the date of death the member had become entitled to such a pension in respect of any period of pensionable service that the member is entitled to count.

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

(4) After the initial period, if—

- (a) the member dies with less than 2 year's qualifying service and before reaching the age of 65; and
- (b) the surviving adult has a guaranteed minimum under section 17 (minimum pension for widows and widowers) of the 1993 Act in relation to benefits in respect of the deceased member under the scheme,

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the annual amount of the pension payable under regulation 3.E.1 is equal to that guaranteed minimum, unless paragraph (5) applies.

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

(6) This regulation is subject to regulation 3.E.7.