
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 109

**The National Health Service Superannuation Scheme
etc. (Miscellaneous Amendments) (Scotland) Regulations 2013**

PART 3

**AMENDMENT OF THE NATIONAL HEALTH SERVICE
PENSION SCHEME (SCOTLAND) REGULATIONS 2008**

Amendment of regulation 3.B.5

53. In regulation 3.B.5 (opting out of this Section of the scheme)—

- (a) in paragraph (1), after “scheme in any” insert “NHS”;
- (b) for paragraph (2) substitute—

“(2) A person who opts out under paragraph (1) ceases to be an active member of this Section of the scheme on the date the notice takes effect and, if applicable, any contributions made by or on behalf of the person for a period of membership after the date on which the notice was effective must be refunded.”;

- (c) for paragraphs (4) and (5) substitute—

“(4) A person to whom paragraph (1)(a) of regulation 3.B.4 applies in respect of an employment who gives notice in writing under paragraph (1) of this regulation within one month of the date of commencing that NHS employment, is to be treated as not having become an active member by virtue of that regulation.

(5) A notice under paragraph (1) ceases to have effect on the day immediately preceding, as the case may be, the person’s—

- (a) automatic enrolment date; or
- (b) automatic re-enrolment date: this does not apply where the notice was given within the period of 12 months immediately preceding that date.”;

- (d) omit paragraph (6);
- (e) in paragraph (7), after “Part 2” insert “or as a locum practitioner”; and
- (f) after paragraph (7), insert—

“(8) This regulation does not apply to a person to whom section 3, 5 or 8 of the 2008 Act(1) and regulation 9 or 15 of the 2010 Regulations(2) apply (that is, a person who is subject to automatic enrolment or automatic re-enrolment in this Section of the scheme as

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- (1) Section 3 makes provision for the automatic enrolment of a qualifying worker into a qualifying scheme like the NHS Superannuation Scheme for Scotland. Section 5 makes provision for the automatic re-enrolment of such a person into such a scheme who has previously opted out of it. Section 8 makes provision for the opting out of such a scheme, including the effect of such an opt out.
 - (2) Regulation 9 sets out the requirements for a valid opt out notice and the time period during which a person who has been automatically enrolled into a qualifying scheme may opt out of it. Regulation 15 applies the provisions of regulation 9 to a person who has been automatically re-enrolled into a qualifying scheme having previously opted out of it. Note that regulation 11 deals with the refund of contributions following an opt out.

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a qualifying scheme who does not wish to participate in it): this paragraph does not affect the rights of such a person who subsequently becomes a member of this Section of the scheme in circumstances where those provisions of the 2008 Act and 2010 Regulations do not apply.”.