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SCOTTISH STATUTORY INSTRUMENTS

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**2013 No. 174**

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

PART 3

BENEFITS FOR PRACTITIONERS, ETC.

CHAPTER 3.D

MEMBERS' RETIREMENT BENEFITS

*Contracting-out obligations (GMPs, etc.)*

**Guaranteed minimum pensions etc.**

**3.D.17.**—(1) If a member has a guaranteed minimum under section 14 (earner's guaranteed minimum) of the 1993 Act in relation to benefits under this Section of the scheme—

- (a) nothing in this Part permits or requires anything that would cause requirements made by or under the 1993 Act in relation to such a member and such a member's rights under this Section of the scheme not to be met in the case of the member;
- (b) nothing in this Part prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements in the case of the member; and
- (c) the following provisions are without prejudice to the generality of this paragraph.

(2) If apart from this rule—

- (a) no pension would be payable to the member under this Section of the scheme; or
- (b) the weekly rate of the pensions payable would be less than the guaranteed minimum,

a pension at a weekly rate equal to the guaranteed minimum is payable to the member for life from the date on which the member reaches State pension age or, as the case may be, pensions the aggregate weekly rate of which is equal to the guaranteed minimum are so payable.

(3) Subject to paragraph (4)—

- (a) if on reaching State pension age the member is still in employment (whether or not it is scheme employment); and
- (b) if it is not scheme employment, the member consents to a postponement of the member's entitlement under paragraph (2),

paragraph (2) does not apply until the member leaves employment.

(4) If the member continues in employment for a further 5 years after reaching State pension age and does not then leave employment, the member is entitled from the end of that period to so much of the member's pension under this Chapter as equals the member's guaranteed minimum (or, as the case may be, to so much of the member's pensions under this Chapter as together have a

weekly rate equal to the member's guaranteed minimum), unless the member consents to a further postponement of the entitlement.

(5) If paragraph (3) or (4) applies, the amount of the guaranteed minimum to which the member is entitled under this rule is increased in accordance with section 15 (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) of the 1993 Act.

(6) If—

- (a) before State pension age the member becomes entitled to the immediate payment of a pension; and
- (b) the member has a guaranteed minimum under section 14 (earner's guaranteed minimum) of the 1993 Act in relation to the whole or part of the pension,

the weekly rate of the pension, so far as attributable to that service, must not be less than that guaranteed minimum, multiplied by such factor as is indicated in tables provided by the scheme actuary for a person of the member's age and sex at the date on which the pension becomes payable.

(7) This paragraph applies if a person has ceased to be in employment that is contracted-out by reference to this Section of the scheme, and either—

- (a) all the person's rights to benefits under this Section of the scheme, except the person's rights in respect of the person's guaranteed minimum or rights under section 9(2B) of the 1993 Act ("the person's contracting-out rights"), have been transferred under Chapter 3.F (transfers); or
- (b) the person has no rights to benefits under this Section of the scheme apart from the person's contracting-out rights.

(8) If paragraph (7) applies—

- (a) from the date on which the person reaches State pension age the person is entitled to a pension payable for life at a weekly rate equal to the person's guaranteed minimum, if any; and
- (b) from the date on which the person reaches pension age the person is entitled to a pension in respect of the person's rights under section 9(2B) of the 1993 Act,

but a person falling within paragraph (7) is not to be regarded as a pensioner for the purposes of Chapter 3.E (death benefits).

(9) Paragraphs (2) to (8) do not apply to—

- (a) a pension that is forfeited—
  - (i) as a result of a conviction for treason; or
  - (ii) in a case where an offence within regulation 3.J.8(2)(b) (forfeiture of rights to benefits) is committed;
- (b) a pension that is commuted under regulation 3.D.11 (option for members in serious ill health to exchange whole pension for lump sum); or
- (c) a pension that is commuted under regulation 3.J.6 (commutation of small pensions) where the conditions in regulation 60 of the Occupational Pension Schemes (Contracting-out) Regulations 1996(1) are met,

but if any other provision of this Section of the scheme is inconsistent with this rule, this rule prevails.

(10) For the purposes of this regulation—

- (a) "scheme employment", in relation to a member, means employment in the employment by virtue of which the member is eligible for membership of this Section of the scheme; and
- (b) references to the amount of a pension are to its amount—

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(1) S.S.I. 1996/1172. Regulation 60 was amended by S.I. 2006/744 and 1337 and 2010/449.

- (i) disregarding any additional pension;
- (ii) after the subtraction of any amount exchanged under regulation 3.D.10 (general option to exchange part of pension for lump sum); and
- (iii) before the subtraction of any amount allocated under regulation 3.D.13 (election to allocate pension).