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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**

*Options to exchange pension for lump sum*

**General option to exchange part of pension for lump sum**

**3.D.10.**—(1) A member (other than a pension credit member whose rights under the scheme are attributable to a disqualifying pension credit for the purpose of paragraph 2 of Schedule 29 to the 2004 Act) may opt to exchange part of a pension to which the member would otherwise be entitled for a lump sum.

(2) If a member so opts, for every £1 by which the member's annual amount of a pension is reduced, the member is to be paid a lump sum of £12.

(3) An option under paragraph (1) must relate to an annual amount of pension that is a whole number of pounds (and accordingly the lump sum must be exactly divisible by 12).

(4) In paragraphs (2) and (3) “annual amount”, in relation to a pension, means the amount of the annual pension to which the member would be entitled under this Chapter apart from the option, together with any increases payable under the Pensions (Increase) Act 1971<sup>M1</sup>, calculated as at the time payment would first be due.

(5) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 (pension schemes etc.) of the 2004 Act (see, in particular, section 241 of, and paragraph 1 of Schedule 29 to, that Act).

(6) If 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 a pension, paragraph (1) only applies to so much of the pension as exceeds that guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme actuary.

(7) Subject to paragraphs (8) and (9), the option under this regulation may only be exercised by giving notice in writing to the scheme administrator in such form as the Scottish Ministers require—

- (a) at the time of claiming the pension; or
- (b) before such later time as the scheme administrator specifies in writing.

(8) If the pension is an ill health pension under regulation 3.D.7 (early retirement on ill health: active members and non-contributing members), the option under this regulation may only be

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exercised by giving notice in writing to the Scottish Ministers in such form as the Scottish Ministers require—

- (a) where the member is awarded—
  - (i) a lower tier ill health pension under paragraph (2) of that regulation, at the time of claiming that lower tier ill health pension;
  - (ii) an upper tier ill health pension under paragraph (3) of that regulation, at the time of claiming that upper tier ill health pension; or
- (b) before such later time as the Scottish Ministers specify in writing.

(9) If the pension is an upper tier ill health pension under regulation 3.D.8 (re-assessment of entitlement to an ill health pension), in substitution for a lower tier ill health pension under regulation 3.D.7, the option under this regulation may only be exercised—

- (a) in relation to the difference between the lower tier ill health pension that ceases to be payable in accordance with regulation 3.D.8(3) and the upper tier ill health pension to which the member becomes entitled under that paragraph; and
- (b) by giving notice in writing to the Scottish Ministers in such form as the Scottish Ministers require—
  - (i) at the time of award of the upper tier ill health pension under that paragraph; or
  - (ii) before such later time as the Scottish Ministers specify in writing.

(10) In the case of a 2008 Section Optant, this regulation is subject to regulation 3.K.8(4) (pension debit members) and regulation 3.K.10 (amount of pension and lump sum to be paid).

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**Marginal Citations**

**M1** 1971 c.56.

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