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.J

## MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

*Provisions about tax*

**Deduction of tax**

**3.J.9.**—(1) The Scottish Ministers may deduct from any payment under this Section of the scheme any tax which is required to be paid in respect of it.

(2) Without prejudice to the generality of paragraph (1), if a person becoming entitled to a benefit under this Part—

(a) which is a benefit crystallisation event under section 216 (benefit crystallisation events and amounts crystallised) of the 2004 Act; and

(b) a lifetime allowance charge under section 214 (lifetime allowance charge) of the 2004 Act arises when that event occurs,

the tax charged must be paid by the scheme administrator.

(3) Paragraph (4) applies if—

(a) a member has given the scheme administrator a statement in accordance with regulation 3.E.23 (tax treatment of lump sums payable on pensioners' deaths) that a lump sum payable under that regulation is to be treated as a pension protection lump sum death benefit in accordance with paragraph 14 of Schedule 29 to the 2004 Act; and

(b) has not withdrawn that statement.

(4) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 206 (special lump sum death benefits charge) of the 2004 Act(**1**) from the lump sum.

(5) Paragraph (6) applies if—

(a) a lump sum is payable on the death of a pensioner member in accordance with regulation 3.E.17(3) (amount of lump sum: single capacity members and recent leavers); and

(b) that lump sum is payable in respect of a member who had reached age 75 at the date of the member's death.

(**1**) Section 206 was inserted by paragraph 41 of Schedule 16 to the Finance Act 2011 (c.11).

(6) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 206 (special lump sum benefits charge) of the 2004 Act from the lump sum.

(7) Paragraph (8) applies if—

(a) an active member, a non-contributing member or a pension credit member exercises the option in regulation 3.D.11(1) (option for members in serious ill health to exchange whole pension for lump sum) to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of that regulation; and

(b) that lump sum payment is to be made to a member who has reached age 75.

(8) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 205A (serious ill health lump sum charge) of the 2004 Act(**2**) from the lump sum.

(9) Without prejudice to the generality of paragraph (1), a person who—

(a) is liable to an annual allowance charge in accordance with section 237A (liability of individual)(**3**) of the 2004 Act; and

(b) meets the conditions specified in paragraph (1) of section 237B (liability of scheme administrator)(**4**) of the 2004 Act,

may give notice in writing to the scheme administrator specifying that the scheme administrator and the person are to be jointly and severally liable for the payment of the annual allowance charge due in respect of that person in accordance with section 237B of the 2004 Act.

(10) Unless the scheme administrator's liability to an annual allowance charge referred to in paragraph (9) is discharged in accordance with section 237D (discharge of scheme administrator's liability)(**5**) of the 2004 Act—

(a) that annual allowance charge is to be paid by the scheme administrator on behalf of the member; and

(b) the member's present or future benefits in respect of which that charge arises are to be adjusted in accordance with section 237E (consequential benefit adjustments to be reasonable etc.) of the 2004 Act(**6**) and calculated by reference to advice provided by the scheme actuary for that purpose.

(**2**) Section 205A was inserted by paragraph 14 of Schedule 16 to the Finance Act 2011 (c.11).
(**3**) Section 237A was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c.11).
(**4**) Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c.11).
(**5**) Section 237D was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c.11).
(**6**) Section 237E was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c.11).