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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 154**

**The National Health Service Superannuation Scheme  
(Scotland) (Miscellaneous Amendments) Regulations 2014**

**PART 3**

**Amendment of the National Health Service Superannuation  
Scheme (2008 Section) (Scotland) Regulations 2013**

**Amendment of the National Health Service Superannuation Scheme (2008 Section)  
(Scotland) Regulations 2013**

**15.** The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013(1) are amended in accordance with this Part.

**Amendment of regulation 1.B.2**

**16.** In regulation 1.B.2 (provision of information for tax purposes)—

(a) in paragraph (4)—

(i) for “transitional”, substitute “fixed”;

(ii) after “Act 2011”, insert “or paragraph 1 of Schedule 22 to the Finance Act 2013”; and

(iii) after “Regulations 2011”, insert “or the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2013”; and

(b) after paragraph (4), insert—

“(4A) If a person applying for a benefit under this Section of the Scheme intends to rely on entitlement to individual protection against a lifetime allowance in accordance with paragraph 1 of Schedule 1 to the Finance Act 2014, that person must give to the scheme administrator the reference number issued by the Commissioners under the Registered Pension Schemes and Relieved Non-UK Pension Schemes (Lifetime Allowance Transitional Protection) (Notification) Regulations 2014 in respect of that entitlement.”.

**New regulation 2.A.13A**

**17.** After regulation 2.A.13, insert—

**“Restriction of reckonable pay where the Scottish Ministers consider the amount is inordinate**

**2.A.13A.**—(1) Where, having regard to the matters referred to in paragraph (2), the Scottish Ministers consider that the amount which would otherwise constitute the member’s interim reckonable pay for the purposes of regulation 2.A.11 is inordinate, the Scottish Ministers may, for the purposes of this regulation, determine what the amount of a member’s interim reckonable pay is to be.

(2) Those matters are—

- (a) any variations in the level of the member’s pay during a period not exceeding ten years and ending with the later of the date the member ceases to be in pensionable employment or the date the member dies;
- (b) the general level of pensionable pay pertaining in NHS employment for members of the same or an equivalent grade or post during the period under consideration for the purposes of sub-paragraph (a);
- (c) promotion and re-grading prospects pertaining in NHS employment for members of the same or an equivalent grade or post;
- (d) any other matters the Scottish Ministers consider relevant.

(3) Where the Scottish Ministers determine the amount of a member’s pensionable pay pursuant to paragraph (1)—

- (a) the difference between the amount which would, but for the determination pursuant to paragraph (1), be the member’s interim reckonable pay and the amount so determined pursuant to that paragraph and adjusted for the purposes of regulation 2.A.12, is to be ignored for the purposes of this regulation (“the ignored amount”);
- (b) any contributions referable to the ignored amount and paid by the member pursuant to regulation 2.C.1 are, net of any tax payable, to be refunded to that member;
- (c) any contributions referable to the ignored amount and paid by the employing authority pursuant to regulation 2.C.5 are to be refunded to that employing authority.”.

**Amendment of regulation 2.B.1**

**18.** In paragraph (3) of regulation 2.B.1 (eligibility: general), for sub-paragraph (b) substitute—

- “(b) entered NHS employment before that date and whether or not that person was, on that date, an active member of the 1995 Section in that employment or any other NHS employment.”.

**Amendment of regulation 2.B.6**

**19.** In paragraph (4) of regulation 2.B.6 (opting out of this Section of the scheme), for “one month” substitute “three months”.

**Amendment of regulation 2.C.2**

**20.** For the table in paragraph (3) of regulation 2.C.2 (contribution rate for members other than non-GP providers), substitute—

**“Scheme Year 2014-15**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,828	5%
£15,829 to £21,601	5.6%
£21,602 to £27,089	7.1%
£27,090 to £49,967	9.3%
£49,968 to £71,337	12.5%
£71,338 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

**Amendment of regulation 2.C.4**

21. For Table 3 in paragraph (15) of regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers), substitute—

**“Scheme year 2014-15**

**Table 3**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,828	5%
£15,829 to £21,601	5.6%
£21,602 to £27,089	7.1%
£27,090 to £49,967	9.3%
£49,968 to £71,337	12.5%
£71,338 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

**Amendment of regulation 2.D.6**

22. In paragraph (1)(b)(ii) of regulation 2.D.6 (increase in pensionable pay following exercise of option under regulation 2.D.5)—

- (a) omit “less than”; and
- (b) after “pay”, insert “or less”.

**New regulation 2.J.10A**

23. After regulation 2.J.10, insert—

**“Interest and administration charges: late paid contributions**

**2.J.10A.**—(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations 2.C.1, 2.C.5, 2.C.6, 2.C.8, 2.C.10 and 2.C.11, there is a chargeable event.

(2) Where there is a chargeable event, the Scottish Ministers may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions it has paid at such an event;
- (c) any other factors that the Scottish Ministers consider relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Scottish Ministers become aware of a chargeable event, the Scottish Ministers must give the employing authority a written notice specifying—

- (a) the date of the chargeable event;
- (b) the amount of unpaid contributions determined under paragraph (2);
- (c) the amount of interest at the standard rate payable in respect of that event;
- (d) the amount of administration charge payable in respect of it;
- (e) that payment of the amounts referred to in sub-paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.

(5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as a single lump sum unless the Scottish Ministers consider the case to be exceptional and consider it appropriate for all, or part, of such an amount to be paid over a period and by a number of instalments determined by the Scottish Ministers.

(6) Where the Scottish Ministers consider the case to be exceptional, nothing in the preceding paragraphs prevents the Scottish Ministers from waiving all or any part of the amount of interest, or all or any administration charges, payable.

(7) The standard rate of interest is the Superannuation Contributions Adjusted for Past Experience discount rate set by the Treasury.

(8) The administration charge in respect of arrears relating to the Scheme Year 2014-2015 and subsequent years is £75.

(9) In any particular case the Scottish Ministers may direct that, for the purposes of this regulation, “employing authority” includes a successor, transmittee or assignee of an employing authority’s business or functions.”.

**Amendment of regulation 2.J.14**

**24.** In regulation 2.J.14 (employing authority and certain member record keeping and contribution estimates)—

- (a) in paragraph (3), after “zero” insert “and no contributions paid in respect of that scheme year are to be refunded”; and
- (b) for paragraphs (6) to (9), substitute—

“(6) An employing authority must, in respect of a person, keep a record of all—

- (a) contributions paid under regulation 2.C.1, 2.C.8 or 2.C.10;
- (b) contributions due under regulation 2.C.1, 2.C.8 or 2.C.10, but unpaid;
- (c) contributions paid under regulation 2.C.5;
- (d) contributions due under regulation 2.C.5, but unpaid;
- (e) hours or sessions referred to in regulation 2.A.3;
- (f) pensionable pay or, in the case of a non-GP Provider, pensionable earnings ;
- (g) absences from work referred to in regulation 2.A.5;
- (h) commencement and termination of pensionable employment;
- (i) reasons for termination of pensionable employment.

(7) That record is to be kept in a manner approved by the Scottish Ministers.

(8) Except where the Scottish Ministers waive such requirement, an employing authority must provide a composite statement in respect of the matters referred to in paragraph (6) in respect of all scheme members to the Scottish Ministers within 2 calendar months of the end of each scheme year.

(9) Where an employing authority has provided the information in accordance with paragraph (8) and there is then a change to any of the information provided, that employing authority must, within 1 month of the change, provide the Scottish Ministers with the revised information.

(10) In respect of each scheme year an employing authority must, within 2 months of a request and in a manner specified by the Scottish Ministers, provide the Scottish Ministers with details of the total contributions paid for all scheme members under regulations 2.C.1, 2.C.5 and 2.C.8.

(11) Where an employing authority has provided the information requested pursuant to paragraph (10) and there is a revision to the total contributions paid, that employing authority must, within 1 month of the change, provide the Scottish Ministers with the revised total.

(12) In respect of each scheme year an employing authority must, 1 month before the beginning of that scheme year and in a manner specified by the Scottish Ministers, provide them and, in the case of a non-GP Provider, the host Board with a statement of estimated total contributions due under regulations 2.C.1, 2.C.5 and 2.C.8.”.

#### **Amendment of regulation 3.B.1**

25. In paragraph (3) of regulation 3.B.1 (eligibility: general), for sub-paragraph (b) substitute—
- “(b) entered NHS employment before that date and whether or not that person was, on that date, an active member of the 1995 Section in that employment or any other NHS employment,”.

#### **Amendment of regulation 3.B.6**

26. In paragraph (4) of regulation 3.B.6 (opting out of this Section of the scheme), for “one month” substitute “three months”.

#### **Amendment of regulation 3.C.2**

27. For Table 3 in paragraph (13) of regulation 3.C.2 (members’ contributions), substitute—

**“Scheme year 2014-15**

**Table 3**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Earnings Band</i>	<i>Contribution Percentage Rate</i>
Up to £15,828	5%
£15,829 to £21,601	5.6%
£21,602 to £27,089	7.1%
£27,090 to £49,967	9.3%
£49,968 to £71,337	12.5%
£71,338 to £111,376	13.5%
£111,377 to any higher amount	14.5%”.

**Amendment of regulation 3.D.6**

**28.** In paragraph (1)(b)(ii) of regulation 3.D.6 (increase in level of engagement following exercise of option under regulation 3.D.5)—

- (a) omit “less than”; and
- (b) at the end, insert “or less”.

**New regulation 3.J.10A**

**29.** After regulation 3.J.10, insert—

**“Interest and administration charges: late paid contributions**

**3.J.10A.—**(1) For the purposes of this regulation, where an employing authority fails to pay, by the dates therein specified, contributions it is required to pay under any or all of regulations 3.C.1, 3.C.3, 3.C.5, 3.C.6, 3.C.8, or 3.C.9, there is a chargeable event.

(2) Where there is a chargeable event, the Scottish Ministers may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions if any it has paid at such an event;
- (c) any other factors that the Scottish Ministers consider relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay standard rate interest on the amount of unpaid contributions constituting that event and an administration charge in respect of each such event.

(4) Where the Scottish Ministers become aware of a chargeable event, they must give the employing authority a written notice specifying—

- (a) the date of each chargeable event;
- (b) the amount of unpaid contributions determined under paragraph (2) constituting each such chargeable event;

- (c) the amount of interest at the standard rate payable in respect of each of those events;
  - (d) the amount of administration charge payable in respect that event;
  - (e) that payment of the amounts referred to in sub-paragraphs (c) and (d) is to be made within 1 month of the date of the notice and that failure to do so incurs further interest and administration charges.
- (5) Any amount payable by way of interest or payable by way of an administration charge is to be paid as a single lump sum unless the Scottish Ministers consider the case to be exceptional and consider it appropriate for all, or part, of such an amount to be paid over a period, and by a number of instalments, determined by the Scottish Ministers.
- (6) Where the Scottish Ministers consider the case to be exceptional, nothing in the preceding paragraphs prevents them from waiving all or any part of the amount of interest, or all or any administration charges, payable.
- (7) The standard rate of interest is the Superannuation Contributions Adjusted for Past Experience discount rate set by the Treasury.
- (8) The administration charge in respect of arrears relating to the scheme year 2014-2015 and subsequent years is £75.
- (9) In any particular case the Scottish Ministers may direct that, for the purposes of this regulation, “employing authority” includes a successor, transmittee or assignee of all or part of an employing authority’s business or functions.”.