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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 97**

**PUBLIC SERVICE PENSIONS**

**The National Health Service Pension Scheme  
(Scotland) Amendment Regulations 2016**

<i>Made</i>	- - - -	<i>10th February 2016</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>12th February 2016</i>
<i>Coming into force</i>	- -	<i>1st April 2016</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 1(1) and (2)(e) of, and paragraph 5(b) of Schedule 2 to, the Public Service Pensions Act 2013<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 22(2)(a) of that Act, the Scottish Ministers consulted the representatives of such persons as appeared to them likely to be affected by these Regulations.

In accordance with section 22(2)(b) of that Act, the Scottish Ministers laid before the Scottish Parliament a report concerning the changes to the members' contribution rates under the National Health Service Pension Scheme (Scotland) made by these Regulations.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the National Health Service Pension Scheme (Scotland) Amendment Regulations 2016.

(2) These Regulations come into force on 1st April 2016 and have effect from 1st April 2015.

**Amendment of the National Health Service Pension Scheme (Scotland) Regulations 2015**

2. The National Health Service Pension Scheme (Scotland) Regulations 2015<sup>(2)</sup> are amended as follows.

**Regulation 27**

3. In regulation 27 (pensionable earnings)—

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(1) 2013 c.25.  
(2) S.S.I. 2015/94.

(a) in paragraph (1), for the Table substitute—

**“Table**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Group</i>	<i>Employment/Engagement</i>	<i>Income</i>
A	M is employed by an NHS organisation	Salary, wages, fees and other regular payments made to M in respect of M’s employment, but not including—
B	M is employed by a medical contractor, a non-GP provider or a dental contractor	
C	M is employed by a determination employer	
		(a) bonuses;
		(b) payments made to cover expenses;
		(c) payments for overtime; or
		(d) pay awards or increases which are expressed by the Scottish Ministers to be non-consolidated.
D	M is— (a) a medical practitioner; (b) a dental practitioner; or (c) a non-GP provider”	Practitioner income: see Schedule 8.

(b) in paragraph (5)(a)(ii), for “practitioner” substitute “provider”.

### Regulation 30

4. In regulation 30 (members’ contributions: employees)—

(a) in paragraph (3)—

(i) for the words from “M’s contribution rate” to “earnings fall.”, substitute—

“M’s contribution rate—

- (a) for the scheme year 2015/16 is the percentage specified in column 2 of Table 1 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall; and
- (b) for the scheme year 2016/17 is the percentage specified in column 2 of Table 2 below in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall.”;

(ii) for “**Table: Scheme Year 2015/16**”, substitute “**Table 1**”; and

(iii) at the end, insert—

**“Table 2**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £16,128	5.2%
£16,129 to £21,817	5.8%
£21,818 to £27,360	7.3%
£27,361 to £50,466	9.5%
£50,467 to £72,050	12.7%
£72,051 to £112,490	13.7%
£112,491 and above	14.7%

(b) in paragraph (4), omit “in the table set out in this regulation”.

**Regulation 31**

5. In regulation 31 (members’ contributions: practitioners and non-GP providers)—

(a) for paragraph (3), substitute—

“(3) M’s contribution rate—

(a) for the scheme year 2015/16 is the percentage specified in column 2 of Table 1 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall; and

(b) for the scheme year 2016/17 is the percentage specified in column 2 of Table 2 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M’s pensionable earnings fall.”;

(b) in paragraph (4), omit “specified in the Table”;

(c) in paragraph (5), for “medical practitioner” substitute “provider”;

(d) in paragraph (9)—

(i) for “The Table”, substitute “The Tables are”;

(ii) for “**Table: Scheme Year 2015/16**”, substitute “**Table 1**”;

(iii) at the end, insert—

**“Table 2**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £16,128	5.2%
£16,129 to £21,817	5.8%
£21,818 to £27,360	7.3%
£27,361 to £50,466	9.5%
£50,467 to £72,050	12.7%

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
£72,051 to £112,490	13.7%
£112,491 and above	14.7%

- (e) in paragraph (10), for the words after “references” substitute “in regulation 37 to “the Table” are references to the applicable Table in paragraph (9) of this regulation”.

### **Regulation 32**

6. In regulation 32(6) (contributions by employing authorities), in column 1 of the table for “ophthalmic medical practitioner” substitute “ophthalmic provider”.

### **Regulation 37**

7. In regulation 37(9)(b) (members contributions: supplementary), for “manger” substitute “manager”.

### **Regulation 43**

8. In regulation 43(2)(b)(ii) (making and varying a buy-out election), for “manger” substitute “manager”.

### **Regulation 112**

9. In regulation 112(2) (surviving adult dependant pension), for “of” substitute “or”.

### **Regulation 152**

10. In regulation 152(2)(b) (medical practitioner), for “(5)” substitute “(6)”.

### **Schedule 1**

11. In paragraph 1 of Schedule 1 (Pension Board), at the end insert—  
“(3) The scheme manager must be satisfied that a person to be appointed as a member of the Board does not have a conflict of interest.”.

### **Schedule 3**

12. In paragraph 16 of Schedule 3 (administrative matters)—  
(a) in sub-paragraph (5)(a), omit “in accordance with paragraph 17”;  
(b) in sub-paragraph (6), for “lime” substitute “time”;  
(c) in sub-paragraph (9), for “2013 Act” substitute “Finance Act 2013”; and  
(d) in sub-paragraph (10), for “change” substitute “charge”.

### **Schedule 5**

13. In Schedule 5 (membership gateways)—  
(a) in Part 2 (medical contractors), in paragraph 3(b), for “practice” substitute “contractor”; and

- (b) in Part 3 (medical practitioners and dental practitioners)—
  - (i) in paragraph 4(a), after “practitioner” insert “(construed in accordance with regulation 152)”; and
  - (ii) in paragraph 4(b), omit “medical”.

#### **Schedule 7**

- 14.** In Schedule 7 (pension accounts)—
- (a) in paragraph 15, for “regulation 44(6)” substitute “regulation 44(4)”; and
  - (b) in paragraph 25(1)(b), for “ceases to be payable” substitute “is abated to zero under”.

#### **Schedule 9**

- 15.** In Schedule 9 (determination of pensionable earnings: setting contribution rates)—
- (a) in paragraph 2(2), after “column 2 of the” insert “applicable”;
  - (b) in paragraph 3—
    - (i) in sub-paragraph (1), for “the table” substitute “Table 2”; and
    - (ii) in sub-paragraph (2)(a), for “the table” substitute “Table 2”.

#### **Schedule 12**

- 16.** In Schedule 12 (lump sum on death), in paragraph 9(3) for “manger” substitute “manager”.

#### **Schedule 13**

- 17.** In Schedule 13 (definitions)—
- (a) in the column 2 entry relating to “medical practitioner”, for “paragraph 4 of Schedule 5” substitute “section 152”;
  - (b) in the column 2 entry relating to “practitioner”, for “regulation 25(7)” substitute “regulation 27(5)”;
  - (c) in column 1, for “Section 17 Agreement” substitute “Section 17C Agreement”;
  - (d) in column 1, for “Section 17 Agreement provider” substitute “Section 17C Agreement provider”; and
  - (e) insert the following new definitions at the appropriate places—

“contracting-out requirements	the requirements set out in sections 13 to 24 of the 1993 Act”
“GMS practice	<ul style="list-style-type: none"><li>(a) a medical practitioner who belongs in group D in regulation 27(1);</li><li>(b) two or more individuals practising in partnership;</li><li>(c) a company limited by shares, with whom a Health Board has entered into a GMS contract”</li></ul>

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“GOS contract	a contract under section 26 of the 1978 Act <sup>(3)</sup> for the provision of the services referred to in paragraph 14 of Schedule 1 to the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 <sup>(4)</sup>
“ophthalmic provider	see regulation 152(9)”

St Andrew’s House,  
Edinburgh  
4th February 2016

*JOHN SWINNEY*  
A member of the Scottish Government

We consent

10th February 2016

*DAVID EVENNETT*  
*MEL STRIDE*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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(3) Section 26 was amended by the Health and Social Security Act 1984 (c.48), Schedule 1, Part II, paragraph 1, the Health and Medicines Act 1988 (c.49), section 13(4) and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), sections 13(2) and 19.

(4) S.S.I. 2006/135; relevant amending instruments are S.S.I. 2007/193, S.S.I. 2010/86 and S.S.I. 2013/355.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service Pension Scheme (Scotland) Regulations 2015. Regulations 4, 5 and 15 include provision inserting new employee contributions tables which reflect the NHS pay uplift from 1st April 2015 and making consequential changes. Otherwise, these Regulations are concerned with correcting errors in, and otherwise clarifying, the 2015 Regulations.