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STATUTORY INSTRUMENTS

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**2008 No. 653**

The National Health Service Pension Scheme Regulations 2008

PART 2

BENEFITS FOR OFFICERS

CHAPTER 2.D

MEMBERS' RETIREMENT BENEFITS

*Dual capacity membership*

**2.D.21 Dual capacity membership**

- (1) This paragraph applies if a member is—
  - (a) a member of the Scheme of two or more of the kinds specified in paragraph (2),
  - (b) a pensioner member in respect of two or more pensions, or
  - (c) a deferred member in respect of two or more pensions.
- (2) The kinds of member are—
  - (a) an active member,
  - (b) a deferred member,
  - (c) a pensioner member, and
  - (d) a pension credit member.
- (3) If paragraph (1) applies, the general rule is that—
  - (a) benefits are payable to the member under this Chapter (or to any person to whom the member has opted to allocate pension under regulation 2.D.18) as if the member were two or more members of the kinds in question (so that two or more pensions or lump sums are payable in respect of the one member), and
  - (b) the amounts payable are determined accordingly.
- (4) The rule in paragraph (3) is subject to any indication to the contrary and, in particular, does not affect the interpretation of—
  - (a) regulation 2.A.2(3) (45 year limit),
  - (b) regulation 2.D.5(9) in a case where a member is both an active member and a pensioner member by virtue of that regulation,
  - (c) regulation 2.D.12 (option to have periods of service treated separately where pay is reduced),
  - (d) regulation 2.G.3 (exception to general rule in 2.G.2 about separate treatment of pay and service),
  - (e) regulation 2.G.4 (effect of re-employment on tier 2 ill-health pensions),

- (f) regulation 2.G.5 (re-employed tier 1 ill-health pensioners),
  - (g) regulation 2.G.6 (deferred pension becoming payable during NHS re-employment as a result of a transfer of undertaking), or
  - (h) Chapter 2.H (abatement).
- (5) If a person who is a pension credit member is entitled to two or more pension credits—
- (a) benefits are payable to the person under the Scheme (or to any person to whom the member has opted to allocate pension under regulation 2.D.18) as if the person were two or more persons, each being entitled to one of the pension credits (so that two or more pensions or lump sums are payable to the one pension credit member), and
  - (b) the amounts of those benefits are determined accordingly.