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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 94**

**The National Health Service Pension  
Scheme (Scotland) Regulations 2015**

**PART 4**

**Contributions**

**CHAPTER 5**

**Additional pension**

**Election to pay contributions for additional pension**

- 54.**—(1) This paragraph applies in relation to a member of the scheme (M) who—
- (a) is in pensionable service under the scheme; and
  - (b) has not reached normal pension age.
- (2) M or, with M's consent, M's employing authority may elect to pay contributions for an additional pension in respect of M ("additional pension election").
- (3) An additional pension election may be made in respect of—
- (a) an additional (self only) pension; or
  - (b) an additional (self only) pension and an additional (survivor's) pension.
- (4) M may make an election under this regulation more than once.
- (5) In this Chapter, the refund period is the period ending one year after the date on which an election under this regulation is accepted.

**Annual rate of additional (self only) pension**

- 55.** The annual rate of additional (self only) pension specified in an additional pension election must be a whole number multiple of—
- (a) £250; or
  - (b) such other amount as is determined by the scheme manager.

**Lump sum or periodic payments**

- 56.**—(1) An employing authority's additional pension contributions must be made by lump sum.
- (2) A member's additional pension contributions may be paid either by lump sum or by periodic payments.

### **Making an additional pension election**

**57.**—(1) An additional pension election by a member (M) must be made by written notice to the scheme manager stating whether additional pension contributions are to be paid—

- (a) as a lump sum; or
- (b) by periodic payments.

(2) An additional pension election by M's employing authority must be made by written notice to the scheme manager.

(3) A notice under this regulation must be accompanied by a declaration by M that M is in good health.

(4) An additional pension election must not be made at any time when M is absent from work for any reason.

### **Accepting an additional pension election**

**58.**—(1) The scheme manager may accept an additional pension election by giving written notice to—

- (a) the member (M); and
- (b) M's employing authority.

(2) The scheme manager may refuse to accept an election if there are reasonable grounds to believe—

- (a) that M is not in good health at the time the election is made; or
- (b) in the case of an election where the contributions are to be made by periodic payments, that M's health is likely to prevent the payment of contributions for the whole of the contributions payment period.

(3) For the purposes of these Regulations, an additional pension election is accepted when M receives notice from the scheme manager.

### **Determination of contribution payable**

**59.**—(1) The scheme manager must determine the amount to be paid as a lump sum or as a periodic payment.

(2) The amount of the lump sum or periodic payment must be—

- (a) not less than the minimum amount; or
- (b) an amount which is a multiple of the minimum amount.

(3) In paragraph (2), the minimum amount is the amount that would, in accordance with tables prepared by the scheme actuary for the scheme year in which the contributions are paid, be the amount of contribution required to secure the additional pension specified under regulation 55.

(4) The tables mentioned in paragraph (3)—

- (a) may specify different amounts for different descriptions of members; and
- (b) may be amended during a scheme year.

(5) An amendment under paragraph (4)(b) has effect—

- (a) at the start of the next scheme year; or
- (b) such later date as the scheme manager specifies.

### **Overall limit on extra pension**

**60.**—(1) The scheme manager must not accept an election under regulation 54 from a member (M) in so far as the effect of accepting the election would be to provide M with one or more additional pensions which exceeds, or in aggregate exceed, the overall limit.

(2) The overall limit is—

(a) £6,500 for a scheme year ending before 1st April 2016;

(b) for a scheme year beginning on or after that date—

(i) the overall limit of extra pension determined by the Treasury in respect of that scheme year as published before the start of that scheme year; or

(ii) if no such determination is made, the amount calculated under paragraph (3).

(3) The amount is the amount to which the annual rate of a pension of an amount equal to the overall limit of extra pension for the previous scheme year would have been increased under the Pensions (Increase) Act 1971 if—

(a) that pension were eligible to be so increased; and

(b) the beginning date for that pension were the first day of the previous scheme year.

(4) In determining the value of an extra pension for the purposes of paragraph (1), the scheme manager must include the value by reference to an annual pension of any actuarial reduction buy-out election having effect in relation to M.

(5) A valuation for the purposes of paragraph (4) must have regard to the advice of the scheme actuary.

### **Lump sum contributions: payment of contributions and credit of additional pension**

**61.**—(1) This paragraph applies to a member (M)—

(a) in respect of whom an additional pension election is accepted; and

(b) whose notice of election states that contributions are to be paid by lump sum.

(2) M's additional pension account is to be credited with an amount equal to the annual rate of additional (self only) pension stated in the notice of election ("the amount of additional pension") if the lump sum contribution is paid within one month after the additional pension election is accepted.

(3) If the lump sum contribution is not paid within that time, an election under regulation 54 is taken not to have been made.

### **Refund of lump sum contribution**

**62.**—(1) This regulation applies if a member (M) has paid a lump sum contribution for additional pension.

(2) The lump sum contribution must be repaid if, before the end of the refund period—

(a) M dies;

(b) an ill-health pension becomes payable to M; or

(c) M leaves all pensionable service and M is not qualified for retirement benefits in respect of that service.

### **Periodic Contributions**

**63.**—(1) This regulation and regulations 64, 65 and 67 to 70 apply in relation to a member (M)—

(a) in respect of whom an additional pension election is accepted; and

- (b) whose notice of election states that contributions are to be paid by periodic payments during the contributions payment period.
- (2) M's employing authority must—
  - (a) deduct the contributions from M's pensionable earnings; and
  - (b) pay them to the scheme manager not later than the 19th day of the month following that in which the earnings were paid to M.
- (3) The contributions payment period must—
  - (a) be a whole number of years;
  - (b) begin with the pay period in respect of which the first contribution is paid;
  - (c) be not less than one year nor more than 20 years; and
  - (d) end before M reaches normal pension age.
- (4) If the scheme manager re-determines the amount of the periodic payment during the contributions payment period, the re-determined amount must be paid from—
  - (a) the beginning of the next scheme year; or
  - (b) such later date as the scheme manager determines.

**Retirement pension (other than ill-health pension) becomes payable before the end of the contributions payment period**

- 64.**—(1) This regulation applies if any of the following retirement pensions becomes payable to M before the end of the contributions payment period—
- (a) a partial retirement (if M has elected to receive additional pension with it);
  - (b) a premature retirement pension;
  - (c) an early retirement pension.
- (2) If this regulation applies—
- (a) periodic payments for additional pension cease to be payable on the entitlement day for that pension; and
  - (b) the amount of accrued additional pension as at the day M leaves the pensionable service concerned is an amount determined by the scheme manager, having regard to—
    - (i) the period over which the contributions were paid; and
    - (ii) the length of the contribution payment period.

**Revoking an additional pension election (periodic payments)**

- 65.**—(1) A member (M) may revoke an additional pension election at any time before the end of the contributions payment period.
- (2) A revocation must be by notice in writing to—
- (a) the scheme manager; and
  - (b) M's employing authority.
- (3) A revocation has effect from the date it is received by the scheme manager (“date of revocation”).
- (4) On the date of revocation under paragraph (1)—
- (a) periodic payments for additional pension under the election cease to be payable; and

- (b) the amount of accrued additional pension as at that date is an amount determined by the scheme manager.
- (5) The scheme manager may revoke the election if there are reasonable grounds for believing—
  - (a) that M's health will prevent M from paying contributions for the whole of the contributions payment period;
  - (b) that M was aware of the state of M's health at the time of making the declaration under regulation 57(3); and
  - (c) that M failed to disclose the state of M's health in the declaration.
- (6) A revocation under paragraph (5) must be given to M by notice in writing.
- (7) If the scheme manager revokes an election under paragraph (5)—
  - (a) periodic payments for additional pension under the election cease to be payable; and
  - (b) payments made by M before the date of revocation must be returned to M or, if M is deceased, M's executors.

**Revocation of election by scheme manager (lump sum)**

**66.**—(1) The scheme manager may revoke an additional pension election made by a member (M) where the contribution was paid by lump sum if the scheme manager has reasonable grounds for believing that—

- (a) at the time the declaration under regulation 57(3) was made, M was aware that the state of M's health was such that not less than 12 months after the election it was reasonable to assume that M would become entitled to an ill-health pension or M's survivors would become entitled to a pension under Part 6; and
- (b) M failed to disclose the state of M's health at the time of making the declaration.

(2) If the scheme manager revokes an election under paragraph (1), the scheme manager must repay the lump sum—

- (a) if the lump sum was paid by M, to M, or if M is deceased, to M's executors;
- (b) if the lump sum was paid by M's employing authority, to the employing authority.

**Effect of being absent or leaving and rejoining scheme during contributions payment period**

**67.**—(1) This paragraph applies if, during the contributions payment period, a member (M) who has made an election under regulation 54—

- (a) is absent from work because of illness or injury;
- (b) is on maternity leave;
- (c) is on adoption leave;
- (d) is on paternity leave;
- (e) is on parental leave; or
- (f) is within regulation 21(4) or (6).

(2) If paragraph (1) applies—

- (a) the contributions payable under regulation 63 continue to be payable unless M ceases paying basic contributions;
- (b) M may resume paying contributions under regulation 63 only if—
  - (i) M ceases to pay basic contributions; but

(ii) resumes paying basic contributions before the end of the period of 12 months beginning with the day on which M first ceased to pay basic contributions.

(3) This paragraph applies if—

- (a) a member (M) has made an election under regulation 54;
- (b) M ceases to be an active member during the contributions payment period; and
- (c) before the end of the period of 12 months beginning with the day on which M ceased to be an active member, M becomes an active member again.

(4) If paragraph (3) applies, M may continue to make contributions in accordance with the election unless a repayment of contributions has been made to M under regulation 39.

(5) For the purposes of paragraph (4), it is immaterial whether M has paid any repaid contributions back to the scheme manager.

(6) In this regulation, “basic contributions” means contributions payable under regulation 30 or 31.

### **Death in service before end of contributions payment period**

**68.**—(1) This regulation applies on the death of a member (D)—

- (a) whose additional pension election is for an additional (self only) pension and an additional (survivor’s) pension; and
- (b) who dies while an active member before the end of the contributions payment period for that election.

(2) If D dies before the end of the refund period—

- (a) the amount of the contributions paid by D must be repaid to D’s executors;
- (b) the amount of a lump sum paid by D’s employing authority must be repaid to the authority; and
- (c) the additional pension account must be closed.

(3) If D dies after the end of the refund period—

- (a) the periodic payments cease to be payable as at the date of D’s death; and
- (b) paragraph (4) applies.

(4) For the purpose of calculating a survivor’s pension—

- (a) if the scheme manager believes that the declaration that accompanied the additional pension election was made in good faith—
  - (i) the periodic payments under the additional pension election are treated as being paid until the end of the contributions payment period for the election;
  - (ii) the amount of accrued additional pension calculated is under paragraph 28 of Schedule 7 as at the date of D’s death;
- (b) if the scheme manager has reasonable grounds to believe that declaration was not made in good faith, paragraph (2)(a) to (c) applies.

### **Ill-health pension becomes payable before end of contributions payment period**

**69.**—(1) This regulation applies if an ill-health pension becomes payable to a member (M) before the end of the contributions payment period for an additional pension election.

(2) If an ill health pension becomes payable to M in consequence of a claim made before the end of the refund period—

- (a) any periodic payments that have been made under the election must be repaid to M;
  - (b) the amount of a lump sum paid by M's employing authority must be repaid to the authority; and
  - (c) the amount of accrued additional pension attributable to the election as at the last day of pensionable service must be disregarded.
- (3) If an ill-health pension becomes payable to M in consequence of a claim after the end of the refund period—
- (a) the periodic payments under the additional pension election are treated as being paid until the end of the contributions payment period for the election.
  - (b) for the purpose of calculating the annual rate of ill-health pension, the amount of accrued additional pension is—
    - (i) if the declaration that accompanied the additional pension election was made in good faith, the amount of accrued additional pension calculated under paragraph 28 of Schedule 7 as at the day of pensionable service; or
    - (ii) if the declaration was not made in good faith, paragraph (2)(a) to (c) applies.

#### **Effect of part payment of contributions**

- 70.**—(1) This regulation applies if—
- (a) the full amount of contributions payable by a member (M) under an additional pension election is not paid; and
  - (b) neither regulation 68(2) nor 69(2) applies.
- (2) The amount of accrued additional pension under paragraph 28(3) of Schedule 7 is the appropriate portion of the amount of accrued additional pension if the full amount of contributions had been paid.
- (3) In the case of an election under regulation 54(3)(b), the amount of accrued additional pension under Part 6 in respect of M is the appropriate proportion of the amount had the full amount of contributions been paid.
- (4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary determines and specifies in guidance given to the scheme manager.
- (5) In making a determination under paragraph (4), the scheme actuary must have regard to—
- (a) the proportion that the total contributions paid bears to the full amount of contributions due to be paid under the election for the full contributions payment period; and
  - (b) the requirements of Chapter 1 of Part 4 of the 1993 Act relating to the preservation of benefits under occupational pension schemes.