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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 94**

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

**PART 5**

**Members' benefits**

**CHAPTER 6**

**Dual capacity and multiple employment**

**Dual capacity membership: pension benefits**

**97.**—(1) This paragraph applies if a member is—

- (a) a member of this scheme in 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;
- (d) a pension credit member.

(3) If paragraph (1) applies—

- (a) pension benefits are payable to the member (or to a person to whom the member has elected to allocate a pension under regulation 50) as if the member were two or more members of the kind in question (so that two or more pensions or lump sums are payable in respect of one member); and
- (b) the amounts payable are determined accordingly.

(4) If a person who is a pension credit member is entitled to two or more pension credits—

- (a) benefits are payable to the member under this scheme as if the member 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 in respect of one pension credit member); and
- (b) the amounts payable are determined accordingly.

**Deferred pension becomes payable during NHS re-employment following transfer of undertaking**

**98.**—(1) A member is not prevented from becoming entitled to a relevant pension because of continuing NHS employment if—

- (a) the member is an active member in the NHS employment which is employment into which the member has been transferred as a result of a transfer of an undertaking to the employing authority; and
  - (b) the member is a deferred member in respect of pensionable service that ceased before the member commenced the employment mentioned in sub-paragraph (a).
- (2) Benefits payable in respect of new employment (within the meaning of regulation 100(3)) are calculated without regard to pensionable service in respect of the old employment (within the meaning of that regulation).
- (3) A relevant pension is in respect of the pensionable service referred to in paragraph (1)(b).

### **Retirement benefits for members with more than one employment**

**99.**—(1) This regulation applies to a member (M) who is in receipt of pensionable earnings in respect of two or more employments each of which is attributable to M belonging to any of groups A to C in the table in regulation 27(1).

(2) Subject to paragraphs (4) and (5), M does not become entitled to a pension under any of the regulations specified in paragraph (3) until—

- (a) the termination of all of M's NHS employments (including employment as a practitioner); or
- (b) M reaches the age of 75.

(3) The regulations are—

- regulation 72;
- regulation 78;
- regulation 80;
- regulation 81;
- regulations 89 to 96.

(4) Paragraph (5) applies if M—

- (a) leaves employment (past employment) with one employing authority; and
- (b) in relation to the past employment, becomes entitled to a pension under regulation 80 or 81.

(5) M may elect—

- (a) to take benefits only in respect of the past employment; and
- (b) to continue to accrue rights in respect of any other continuing pensionable employment.

(6) If M elects as mentioned in paragraph (5), paragraph (2) applies in relation to an employment in respect of which M continues to accrue rights to benefits.

(7) Chapter 7 of Part 5 applies if M becomes entitled to a pension under paragraph (5) while continuing in other NHS employment.

(8) Paragraphs (9) and (10) apply if M—

- (a) becomes entitled to a pension under regulation 80 or 81; and
- (b) terminated concurrent employment as a practitioner not more than 12 months before becoming entitled to the pension.

(9) M is not entitled to receive a pension under regulation 80 or 81 in respect of any employment as a practitioner but is entitled only to receive a pension in respect of that employment pursuant to regulation 72 or 78.

(10) M may exercise a right to transfer out under Section 2 of Chapter 2 of Part 7 only if M leaves all pensionable service —

- (a) before reaching normal pension age; and
- (b) before becoming entitled to a pension under this scheme.