
SCOTTISH STATUTORY INSTRUMENTS

2021 No. 102

NATIONAL HEALTH SERVICE

**The National Health Service Superannuation
and Pension Schemes (Miscellaneous
Amendments) (Scotland) Regulations 2021**

Made - - - - *22nd February 2021*
Laid before the Scottish
Parliament - - - - *23rd February 2021*
Coming into force - - *1st April 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10 and 12 and schedule 3 of the Superannuation Act 1972⁽¹⁾, section 1(1) and (2)(e) and paragraph 5(b) of schedule 2, and schedule 3, of the Public Service Pensions Act 2013⁽²⁾ and all other powers enabling them to do so.

In accordance with section 10(4) of the Superannuation Act 1972, the Scottish Ministers have consulted with such representatives of persons likely to be affected by these Regulations as appear to them to be appropriate.

In accordance with section 22(2)(a) of the Public Service Pensions Act 2013, 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 members' contribution rates under the NHS Pension Scheme (Scotland) 2015⁽³⁾ made by these Regulations.

In accordance with section 10(1) of the Superannuation Act 1972 and section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury⁽⁴⁾.

-
- (1) [1972 c.11](#). Section 10 was amended by Part II of schedule 7 of the National Health Service (Scotland) Act [1972 \(c.58\)](#), schedule 5 of the National Health Service Reorganisation Act [1973 \(c.32\)](#), sections 4(2) and 8(5) and (6) of the Pensions (Miscellaneous Provisions) Act [1990 \(c.7\)](#) (“the 1990 Act”), paragraph 7 of schedule 8 of the Pensions Schemes Act [1993 \(c.48\)](#), paragraph 10 of schedule 8 of the Public Service Pensions Act [2013 \(c.25\)](#) and [S.I. 2001/3649](#). Section 12 was amended by section 10 of the 1990 Act. The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of article 2 and schedule 1 of [S.I. 1999/1750](#).
- (2) [2013 c.25](#).
- (3) The pension scheme established by [S.S.I. 2015/94](#) is to be known in terms of regulation 2(2) of that instrument as the NHS Pension Scheme (Scotland) 2015.
- (4) The function of the Minister under section 10(1) of the Superannuation Act 1972 was transferred to the Treasury by [S.I. 1981/1670](#).

PART 1

Introductory

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021.

(2) Save as provided for by paragraphs (3) to (8), these Regulations come into force on 1 April 2021.

(3) Regulations 48 to 50, 51(2) and 63 have effect from 1 April 2015.

(4) Regulations 3(2), 5 to 7, 12, 13, 15(b), 16 to 20, 21(3), 22(3), 23 to 25, 26(2) and 28(4) have effect from 1 April 2011.

(5) Regulations 53 and 54 have effect from 1 June 2018.

(6) Regulations 32 to 34, 35(2), 39 to 41, and 42(2) have effect from 1 July 2013.

(7) Regulations 8 to 11, 14, 15(a) and (c), 21(2), 22(2), 27 and 28(3) have effect from 5 December 2005.

(8) Regulations 56 to 61 have effect from 28 June 2008.

PART 2

Amendment of the National Health Service Superannuation Scheme (Scotland) Regulations 2011

General

2. The National Health Service Superannuation Scheme (Scotland) Regulations 2011(5) are amended in accordance with regulations 3 to 28.

Amendment of regulation A2

3.—(1) Regulation A2 (interpretation) is amended as follows.

(2) At the appropriate places in the alphabetical order insert—

““scheme partner” has the meaning given in G14(7)”,

““surviving scheme partner” has the meaning given in the regulation G14(8);”.

Amendment of regulation D1

4. In regulation D1 (contributions by members)—

(a) in paragraph (2)—

(i) after sub-paragraph (f)(6), insert—

“(g) for the scheme year 2021-22 is the percentage specified in column 2 of table 7 in respect of the corresponding pensionable pay band specified

(5) S.S.I. 2011/117. Relevant amending instruments are S.S.I. 2012/163, S.S.I. 2013/109, S.S.I. 2014/43, S.S.I. 2014/154, S.S.I. 2015/96, S.S.I. 2016/98, S.S.I. 2017/27, S.S.I. 2017/434, S.S.I. 2019/46 and S.S.I. 2020/30.

(6) Sub-paragraph (f) was inserted by S.S.I. 2020/30.

- in column 1 of that table into which the member’s pensionable pay falls.”,
and
(ii) after table 6(7), insert—

“Table 7

| <i>Column 1</i> | <i>Column 2</i> |
|-------------------------------|-------------------------------------|
| <i>Pensionable pay band</i> | <i>Contribution percentage rate</i> |
| Up to £20,605 | 5.2% |
| £20,606 - £24,972 | 5.8% |
| £24,973 - £31,648 | 7.3% |
| £31,649 - £64,094 | 9.5% |
| £64,095 - £89,731 | 12.7% |
| £89,732 - £119,560 | 13.7% |
| £119,561 to any higher amount | 14.7% |

- (b) in paragraph (2A)(8)—
(i) for “2020-21”, substitute “2021-22”, and
(ii) for “table 6”, substitute “table 7”, and
(c) in each of paragraphs (20), (21)(a) and (25)(b)(9), for “table 6” substitute “table 7”.

Amendment of regulation F5

5. In regulation F5 (payment of a lump sum), for paragraph (12) substitute—
“(12) In this regulation “surviving partner” means—
(a) a surviving scheme partner; or
(b) one of the following, who survives the member—
(i) a widow;
(ii) a widower;
(iii) a civil partner.”.

Amendment of regulation G6

6. In regulation G6 (widow’s pension when member marries after leaving pensionable employment), in paragraph (4)(10)—
(a) for “nominated partner” substitute “scheme partner”,
(b) for “nominated partner’s pension” substitute “scheme partner’s pension”,
(c) for “nominated partner pension” substitute “surviving scheme partner’s pension”.

(7) Table 6 was inserted by [S.S.I. 2020/30](#).

(8) Paragraph (2A) was inserted by [S.S.I. 2013/168](#) and substituted [S.S.I. 2017/434](#).

(9) Each of these paragraphs has been previously amended by [S.S.I. 2015/93](#) and [2020/30](#) (inserting “table 6” which is now being replaced).

(10) Paragraph (4) was inserted by [S.S.I. 2013/109](#).

Amendment of regulation G9

7. In regulation G9 (increased widower's pension), in paragraph (4)(b)(11), for "nominated partner" substitute "scheme partner".

Amendment of regulation G10

8.—(1) Regulation G10 (surviving civil partner's pension) is amended as follows.

(2) In paragraph (2), omit "Subject to paragraph (3),".

(3) Omit paragraphs (3), (4) and (5).

Omission of regulation G11

9. Omit regulation G11 (dependant surviving civil partner's pension).

Omission of regulation G12

10. Omit regulation G12 (purchase of surviving civil partner's pension in respect of service prior to 6 April 1988).

Omission of regulation G13

11. Omit regulation G13 (increased surviving civil partner's pension).

Amendment of regulation G14

12. For regulation G14 (surviving nominated partner's pension), substitute—

"Surviving scheme partner's pension"

G14.—(1) This regulation applies on the death of a member, if—

- (a) the member has pensionable service on or after 1st April 2011,
- (b) the member dies in any of the circumstances described in regulations G2 to G6, and
- (c) the member leaves a surviving scheme partner.

(2) Where this regulation applies, a surviving scheme partner is entitled to a surviving scheme partner's pension.

(3) A surviving scheme partner's pension is calculated and paid—

- (a) in accordance with regulations G1 to G6, as they apply to pensions for widows, and
- (b) excluding any part of the member's benefit that is based on pensionable service before 6th April 1988.

(4) Paragraph 3(b) is subject to the following—

- (a) if regulation G2(3) or (6) or regulation G4(2) or (3) applies to the calculation of a surviving scheme partner's pension on a member's death in pensionable employment or with a preserved pension—
 - (i) the whole of the member's pensionable service is taken into account when calculating whether and, if so, the extent to which there would have been

(11) Paragraph (4) was amended by [S.S.I. 2015/96](#).

- an increase, by the application of regulation E2(4) or regulation E3(4), in the pensionable service on which the member's pension, under regulation E2 or regulation E3, would have been based, and
- (ii) the whole period, if any, by which the member's pension would have increased, is treated in this regulation as pensionable service after 5th April 1988 for the purpose of calculating a surviving scheme partner's pension,
- (b) if regulation G3(2) applies, so that the surviving scheme partner's pension is equal to the member's pension for a limited period, the surviving scheme partner's pension for that limited period is equal to the whole of the member's pension.
- (5) If regulation G6 applies, paragraph (1) of that regulation applies as if the words "where the member and his wife were not married to each other during any period of pensionable employment" read "if Scottish Ministers are not satisfied that a member's partner was the member's scheme partner for a continuous period of at least two years ending on the member's last day of pensionable service".
- (6) A reference in these Regulations to regulation G1 to G6 means, in relation to benefits in respect of a member who has a scheme partner, those regulations as applicable to the member's surviving scheme partner.
- (7) A person ("P") is the scheme partner of a member if—
- (a) the member and P are living together as if they were husband and wife or civil partners,
- (b) the member and P are not prevented from marrying or entering into a civil partnership,
- (c) the member and P are financially interdependent or P is financially dependent on the member, and
- (d) neither the member nor P is living with a third person as if they were husband and wife or as if they were civil partners.
- (8) A person is a surviving scheme partner of a member if the Scottish Ministers are satisfied that for a continuous period of at least two years, ending with the member's death, the person was the scheme partner of that member."

Amendment of regulation G15

13.—(1) Regulation G15 (dependent surviving nominated partner's pension) is amended as follows.

- (2) In the heading for "nominated partner's" substitute "scheme partner's".
- (3) For paragraph (1), substitute—
- “(1) A member may apply for the member's scheme partner to receive a dependent surviving scheme partner's pension on the member's death.
- (1A) An application must—
- (a) be made by the member giving notice in writing to the Scottish Ministers before leaving pensionable employment, and
- (b) be in relation to a person who has been the member's scheme partner for a continuous period of at least two years on the member's last day of pensionable service.”.
- (4) In paragraph (2) for "nominated partner" substitute "scheme partner".
- (5) For paragraph (3), substitute—

“(3) If the Scottish Ministers have accepted a member’s application and the member subsequently dies before the member’s scheme partner, a scheme partner entitled to a surviving scheme partner’s pension is entitled to a dependent surviving scheme partner’s pension.”.

- (6) In paragraph (4) for “nominated partner’s” substitute “scheme partner’s”.
- (7) In paragraph (5) for “nominated partner’s” substitute “scheme partner’s”.
- (8) In paragraph (6) for “nominated partner” substitute “scheme partner”.

Amendment of regulation G16

14. In regulation G16 (purchase of surviving partner’s pension in respect of service before 6 April 1988), in paragraph (5), omit sub-paragraph (b).

Amendment of regulation G17

- 15.** In regulation G17 (increased surviving partner’s pension), in paragraph (2)—
- (a) omit “, civil partner”,
 - (b) for “nominated partner” substitute “surviving scheme partner”,
 - (c) omit “, regulation G10”.

Amendment of regulation H1

- 16.** In regulation H1 (dependent child), in paragraph (1)—
- (a) in sub-paragraph (c) for “nominated partner” substitute “surviving scheme partner”,
 - (b) for sub-paragraph (e) substitute—
 - “(e) a child of a member’s surviving scheme partner if the Scottish Ministers are satisfied that the surviving scheme partner was the member’s scheme partner before that date on which the member leaves pensionable employment;”.

Amendment of regulation H3

17.—(1) Regulation H3 (child allowance when member dies in pensionable employment) is amended as follows.

- (2) In paragraph (6) for “nominated partner” substitute “scheme partner”.
- (3) In paragraph (7)—
 - (a) for “nominated partner’s pension” substitute “surviving scheme partner’s pension”,
 - (b) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (8)—
 - (a) for “nominated partner’s pension” substitute “surviving scheme partner’s pension”,
 - (b) for “nominated partner” substitute “scheme partner”.
- (5) In paragraph (9) for “nominated partner” substitute “scheme partner”.
- (6) In paragraph (10) for “nominated partner” substitute “scheme partner”.

Amendment of regulation H4

18.—(1) Regulation H4 (child allowance when member dies after pension becomes payable) is amended as follows.

- (2) In paragraph (4) for “nominated partner” substitute “scheme partner”.
- (3) In paragraph (5)(12) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (6)—
 - (a) for “nominated partner” substitute “scheme partner”,
 - (b) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”.
- (5) In paragraph (7)—
 - (a) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”,
 - (b) for “surviving nominated partner” substitute “surviving scheme partner”.
- (6) In paragraph (8)—
 - (a) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”,
 - (b) for “surviving nominated partner” substitute “surviving scheme partner”.

Amendment of regulation H5

19.—(1) Regulation H5 (child allowance when member dies with preserved pension) is amended as follows.

- (2) In paragraph (7) for “nominated partner” substitute “scheme partner”.
- (3) In paragraph (8) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (9)—
 - (a) for “nominated partner” substitute “scheme partner”,
 - (b) for “surviving nominated partner’s pension” substitute “surviving scheme partner’s pension”.

Amendment of regulation H7

20.—(1) Regulation H7 (increase of child allowance when child not dependent on surviving parent or spouse, civil partner or nominated partner of a parent) is amended as follows.

- (2) In the heading for “nominated partner” substitute “scheme partner”.
- (3) In paragraph (1) for each reference to “nominated partner” substitute “scheme partner”.
- (4) In paragraph (2) for “nominated partner” substitute “scheme partner”.

Amendment of regulation Q1

21.—(1) Regulation Q1 (right to buy additional service) is amended as follows.

- (2) Omit paragraph (8).
- (3) In paragraph (9)—
 - (a) for “nominated partner’s pension” substitute “scheme partner’s pension”,
 - (b) for “nominated partner” substitute “scheme partner”.

Amendment of regulation Q4

22.—(1) Regulation Q4 (paying for unreduced retirement lump sum by single payment) is amended as follows.

- (2) Omit paragraph (3).
- (3) In paragraph (4)—
 - (a) for each reference to “nominated partner” substitute “scheme partner”,
 - (b) for “nominated partner’s pension” substitute “scheme partner’s pension”.

Amendment of regulation R3

23. In regulation R3 (mental health officers), in paragraph (8)(b) for “nominated partner’s pension” substitute “scheme partner’s pension”.

Amendment of regulation S5

24.—(1) Regulation S5 (benefits on death in pensionable employment after pension under regulation E2 becomes payable) is amended as follows.

- (2) In paragraph (9) for each reference to “nominated partner” substitute “scheme partner”.
- (3) In paragraph (11)(b) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (14) for “nominated partner’s pension” substitute “scheme partner’s pension”.
- (5) In paragraph (15) for “nominated partner’s pension” substitute “scheme partner’s pension”.
- (6) In paragraph (16) for “nominated partner’s pension” substitute “scheme partner’s pension”.
- (7) In paragraph (17)(b) for “nominated partner pension” substitute “scheme partner’s pension”.
- (8) In paragraph (18) for “nominated partner pension” substitute “scheme partner’s pension”.

Amendment of regulation S6

25.—(1) Regulation S6 (benefits on death in pensionable employment after pension under regulation E3 becomes payable) is amended as follows.

- (2) In paragraph (9) for each reference to “nominated partner” substitute “scheme partner”.
- (3) In paragraph (11)(b) for “nominated partner” substitute “scheme partner”.
- (4) In paragraph (14) for “nominated partner’s pension” substitute “surviving scheme partner’s pension”.
- (5) In paragraph (15) for “nominated partner’s pension” substitute “surviving scheme partner’s pension”.
- (6) In paragraph (16) for “nominated partner’s pension” substitute “surviving scheme partner’s pension”.
- (7) In paragraph (17) for “nominated partner” substitute “scheme partner”.

Amendment of regulation T7

26. In regulation T7 (loss of rights of benefits), in paragraph 2(a) for “nominated partner” substitute “scheme partner”.

Amendment of regulation U2

27. In regulation U2 (determination of questions), in paragraph (4)(b), omit “, regulation G11(2)”.

Amendment of schedule 1

28.—(1) Schedule 1 (medical and dental practitioners) is amended as follows.

(2) In paragraph 14 (contributions to this Section of the scheme) of schedule 1 (medical and dental practitioners), in sub-paragraph (2)—

(a) after paragraph (g), insert—

“(h) in respect of the 2021-2022 scheme year, table 8”, and

(b) after table 7(13), insert—

“Table 8: Scheme Year 2021-22

| <i>Column 1</i> | <i>Column 2</i> |
|----------------------------------|-------------------------------------|
| <i>Pensionable earnings band</i> | <i>Contribution percentage rate</i> |
| Up to £20,605 | 5.2% |
| £20,606 - £24,972 | 5.8% |
| £24,973 - £31,648 | 7.3% |
| £31,649 - £64,094 | 9.5% |
| £64,095 - £89,731 | 12.7% |
| £89,732 - £119,560 | 13.7% |
| £119,561 to any higher amount | 14.7%” |

(3) Omit paragraph 20 (increased surviving civil partner’s pension).

(4) In paragraph 21 (increased dependent surviving nominated partner’s pension) for the words “nominated partner’s pension” in each place they occur substitute “scheme partner’s pension”.

PART 3

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

General

29. The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013(14) are amended in accordance with regulations 30 to 44.

Amendment of regulation 2.C.2

30. In regulation 2.C.2 (contribution rate for members other than non-GP providers), in paragraph (2)—

(a) after “falls” in sub-paragraph (f), insert—

“(g) for the scheme year 2021-22 is the percentage specified in column 2 of table 7 in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.”, and

(13) Table 7 was inserted by S.S.I. 2020/30.

(14) S.S.I. 2013/174. Relevant amending instruments are S.S.I. 2015/95, S.S.I. 2015/96, S.S.I. 2016/98, S.S.I. 2017/27, S.S.I. 2017/434, S.S.I. 2019/46 and S.S.I. 2020/30.

(b) after table 6(15), insert—

“Table 7

| <i>Column 1</i> | <i>Column 2</i> |
|-------------------------------|-------------------------------------|
| <i>Pensionable pay band</i> | <i>Contribution percentage rate</i> |
| Up to £20,605 | 5.2% |
| £20,606 - £24,972 | 5.8% |
| £24,973 - £31,648 | 7.3% |
| £31,649 - £64,094 | 9.5% |
| £64,095 - £89,731 | 12.7% |
| £89,732 - £119,560 | 13.7% |
| £119,561 to any higher amount | 14.7%” |

Amendment of regulation 2.C.3

31. In regulation 2.C.3 (determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers), in each of paragraphs (16), (17)(a) and 21(b), for “table 6” substitute “table 7”.

Amendment of regulation 2.E.1

32. In regulation 2.E.1 (surviving dependant adult’s pension), in paragraph (2), for “nominated partner” substitute “scheme partner”.

Amendment of regulation 2.E.2

33. For regulation 2.E.2 (meaning of “surviving nominated partner”) substitute—

“Meaning of “surviving scheme partner”

2.E.2. In this Part, a person (“P”) is a “surviving scheme partner” if the Scottish Ministers are satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and P were living together as if they were husband and wife or civil partners,
- (b) the member and P were not prevented from marrying or entering into a civil partnership,
- (c) the member and P were financially interdependent or P was financially dependent on the member, and
- (d) neither the member nor P were living with a third person as if they were husband and wife or as if they were civil partners.”.

Amendment of regulation 2.E.9

34. In regulation 2.E.9 (meaning of “dependent child”), in paragraph (2)—

(15) Table 6 was inserted by [S.S.I. 2020/30](#).

- (a) in sub-paragraph (d)—
 - (i) for “regulation 2.E.2(1)(b)(i)” substitute “regulation 2.E.2(a) and (b)”,
 - (ii) for each reference to “nominated partner” substitute “scheme partner”,
- (b) in sub-paragraph (e) for “nominated partner” substitute “scheme partner”,
- (c) in sub-paragraph (f) for “nominated partner” substitute “scheme partner”.

Amendment of regulation 2.J.8

- 35.**—(1) Regulation 2.J.8 (forfeiture of rights to benefits) is amended as follows.
- (2) In paragraph (5), in sub-paragraph (a) for “nominated partner” substitute “scheme partner”.

Amendment of regulation 2.K.20

36. In regulation 2.K.20 (nominations and notices accepted by the Scottish Ministers under the 2011 Regulations to apply under Chapter 2.E), in paragraph (2) omit sub-paragraph (c).

Amendment of regulation 2.L.2

37. In regulation 2.L.2 (nominations and notices accepted by the Scottish Ministers under the 2011 Regulations to apply under Chapter 2.E), in paragraph (2) omit sub-paragraph (c).

Amendment of regulation 3.C.2

- 38.** In regulation 3.C.2 (members’ contribution rate), in paragraph (13)(16)—
- (a) after sub-paragraph (g), insert—
 - “(h) in respect of the 2021-22 scheme year, table 8”, and
 - (b) after table 7, insert—

“Table 8: Scheme Year 2021-22

| <i>Column 1</i> | <i>Column 2</i> |
|----------------------------------|-------------------------------------|
| <i>Pensionable earnings band</i> | <i>Contribution percentage rate</i> |
| Up to £20,605 | 5.2% |
| £20,606 - £24,972 | 5.8% |
| £24,973 - £31,648 | 7.3% |
| £31,649 - £64,094 | 9.5% |
| £64,095 - £89,731 | 12.7% |
| £89,732 - £119,560 | 13.7% |
| £119,561 to any higher amount | 14.7%” |

Amendment of regulation 3.E.1

39. In regulation 3.E.1 (surviving dependent adult’s pension), in paragraph (2) for “nominated partner” substitute “scheme partner”.

(16) Paragraph (13) was substituted by [S.S.I. 2015/96](#) and was last amended by [S.S.I. 2020/30](#).

Amendment of regulation 3.E.2

40. For regulation 3.E.2 (meaning of “surviving nominated partner”) substitute—

“Meaning of “surviving scheme partner”

3.E.2. In this Part, a person (“P”) is a “surviving scheme partner” if the Scottish Ministers are satisfied that for a continuous period of at least two years, ending with the member’s death—

- (a) the member and P were living together as if they were husband and wife or civil partners,
- (b) the member and P were not prevented from marrying or entering into a civil partnership,
- (c) the member and P were financially interdependent or P was financially dependent on the member, and
- (d) neither the member nor P were living with a third person as if they were husband and wife or as if they were civil partners.”.

Amendment of regulation 3.E.9

41. In regulation 3.E.9 (meaning of “dependent child”), in paragraph (2)—

- (a) in sub-paragraph (d)—
 - (i) for “regulation 3.E.2(1)(b)(i)” substitute “regulation 3.E.2(a) and (b)”,
 - (ii) for each reference to “nominated partner” substitute “scheme partner”,
- (b) in sub-paragraph (e) for “nominated partner” substitute “scheme partner”,
- (c) in sub-paragraph (f) for “nominated partner” substitute “scheme partner”.

Amendment of regulation 3.J.8

42.—(1) Regulation 3.J.8 (forfeiture of rights to benefits) is amended as follows.

(2) In paragraph (5)(a), for “nominated partner” substitute “surviving scheme partner”.

Amendment of regulation 3.K.19

43. In regulation 3.K.19 (nominations and notices accepted by the Scottish Ministers under the 2011 Regulations to apply under Chapter 3.E), in paragraph (2) omit sub-paragraph (c).

Amendment of regulation 3.L.2

44. In regulation 3.L.2 (nominations and notices accepted by the Scottish Ministers under the 2011 Regulations to apply under Chapter 3.E), in paragraph (2) omit sub-paragraph (c).

PART 4

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

General

45. The National Health Service Pension Scheme (Scotland) Regulations 2015(17) are amended in accordance with regulations 46 to 51.

Amendment of regulation 30

46. In regulation 30 (members' contributions: employees), in paragraph (3)—

(a) after sub-paragraph (f)(18), insert—

“(g) for the scheme year 2021/22 is the percentage specified in column 2 of Table 7 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall,”, and

(b) after table 6(19), insert—

“Table 7

| <i>Column 1</i> | <i>Column 2</i> |
|----------------------------------|-------------------------------------|
| <i>Pensionable earnings band</i> | <i>Contribution percentage rate</i> |
| Up to £20,605 | 5.2% |
| £20,606 - £24,972 | 5.8% |
| £24,973 - £31,648 | 7.3% |
| £31,649 - £64,094 | 9.5% |
| £64,095 - £89,731 | 12.7% |
| £89,732 - £119,560 | 13.7% |
| £119,561 to any higher amount | 14.7%” |

Amendment of regulation 31

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

(a) in paragraph (3), after sub-paragraph (f)(20), insert—

“(g) for the scheme year 2021/22 is the percentage specified in column 2 of Table 7 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall.”, and

(b) in paragraph (9), after table 6(21) insert—

(17) S.S.I. 2015/94. Relevant amending instruments are S.S.I. 2016/97, S.S.I. 2017/28, S.S.I. 2017/434, S.S.I. 2019/46 and S.S.I. 2020/30.

(18) Sub-paragraph (f) was inserted by S.S.I. 2020/30.

(19) Table 6 was inserted by S.S.I. 2020/30.

(20) Sub-paragraph (f) was inserted by S.S.I. 2020/30.

(21) Table 6 was inserted by S.S.I. 2020/30.

“Table 7

| <i>Column 1</i> | <i>Column 2</i> |
|----------------------------------|-------------------------------------|
| <i>Pensionable earnings band</i> | <i>Contribution percentage rate</i> |
| Up to £20,605 | 5.2% |
| £20,606 - £24,972 | 5.8% |
| £24,973 - £31,648 | 7.3% |
| £31,649 - £64,094 | 9.5% |
| £64,095 - £89,731 | 12.7% |
| £89,732 - £119,560 | 13.7% |
| £119,561 to any higher amount | 14.7% |

Amendment of regulation 112

48. In regulation 112 (surviving adult dependant pension), in paragraph (2), for sub-paragraph (c) substitute—

“(c) a surviving scheme partner.”.

Substitution of regulation 113

49. For regulation 113 (surviving nominated partner) substitute—

“Surviving scheme partner

113.—(1) A person (“P”) is the scheme partner of a member if—

- (a) the member and P are living together as if they are husband and wife or civil partners,
- (b) the member and P are not prevented from marrying or entering a civil partnership,
- (c) the member and P are financially interdependent or P is financially dependent on the member, and
- (d) neither the member or P is living with a third person as if they are husband and wife or civil partners.

(2) A person is a surviving scheme partner of a member if the Scottish Ministers are satisfied that for a continuous period of at least two years, ending with the member’s death, the person was the scheme partner of that member.”.

Amendment of regulation 121

50.—(1) Regulation 121 (eligible child), paragraph (2) is amended as follows.

(2) In sub-paragraph (d)—

- (a) for “nominated partner” substitute “scheme partner”,
- (b) for “regulation 113(1)(b)(i)” substitute “regulation 113(1)(a) and (d)”.

(3) In sub-paragraph (e), in paragraph (ii), for “nominated partner” substitute “surviving scheme partner”.

(4) In sub-paragraph (f), in paragraph (ii), for “nominated partner” substitute “surviving scheme partner”.

Amendment of schedule 3

51.—(1) Schedule 3 (administrative matters), in paragraph 12 (forfeiture of rights to benefits) is amended as follows.

(2) In paragraph (5)(a), for “nominated partner” substitute “surviving scheme partner”.

PART 5

Amendment of the National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018

General

52. The National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018(**22**) are amended in accordance with regulations 53 and 54.

Amendment of regulation 2

53.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In the table in paragraph (1)—

(a) in the definition of “dependant” in column B, in sub-paragraph (d), for “nominated partner” substitute “scheme partner”,

(b) for the definition of “scheme partner” in column B substitute—

“A person (“P”) is the scheme partner of a participator if—

(a) the participator and P are living together as if they were husband and wife or civil partners,

(b) the participator and P are not prevented from marrying or entering into a civil partnership,

(c) the participator and P are financially interdependent or the person is financially dependent on the contributor, and

(d) neither the participator nor P is living with a third person as if they were husband and wife or as if they were civil partners.”.

(c) in the definition of “surviving scheme partner” in column B substitute—

“A person is a surviving scheme partner of a participator if the Scottish Ministers are satisfied that for a continuous period of at least two years, ending with the participator’s death, the person was the scheme partner of that participator.”.

Amendment of regulation 15

54. In regulation 15 (payments by the Scottish Ministers), in paragraph (3)(b), for “nominated partner” substitute “surviving scheme partner”.

PART 6

Amendments to the National Health Service (Scotland) (Injury Benefits) Regulations 1998

General

55. The National Health Service (Scotland) (Injury Benefits) Regulations 1998⁽²³⁾ are amended in accordance with regulations 56 to 61.

Amendment of regulation 2

56.—(1) Regulation 2 (interpretation) is amended as follows.

(2) At the appropriate places in the alphabetical order insert—

““scheme partner” has the meaning given in regulation 2C;”,

““surviving scheme partner” has the meaning given in regulation 2D;”.

(3) In the definition of “surviving partner”⁽²⁴⁾ for “nominated partner” substitute “scheme partner”.

New regulations 2C and 2D

57. After regulation 2B (civil partnerships and marriage of same sex couples)⁽²⁵⁾ insert—

“Meaning of scheme partner

2C. A person (“person B”) is the “scheme partner” of a person to whom these regulations apply (“person A”) if—

- (a) person A and person B are living together as if they were husband and wife or civil partners,
- (b) person A and person B are not prevented from marrying or entering into a civil partnership,
- (c) person A and person B are financially interdependent or person B is financially dependent on person A, and
- (d) neither person A nor person B is living with a third person as if they were husband and wife or civil partners.

Meaning of surviving scheme partner

2D. A person (“person B”) is a “surviving scheme partner” of a person to whom these regulations apply (“person A”) if the Scottish Ministers are satisfied that for a continuous period of at least two years, ending with person A’s death, person B was the scheme partner of person A.”.

⁽²³⁾ S.I. 1998/1594. Relevant amending instruments are S.S.I. 1999/444, S.S.I. 1999/195, S.S.I. 2001/437, S.S.I. 2004/212, S.S.I. 2005/445, S.S.I. 2005/512, S.S.I. 2005/544, S.S.I. 2005/2011, S.S.I. 2008/92, S.S.I. 2008/225, S.S.I. 2009/19, S.S.I. 2009/208, S.S.I. 2010/22, S.S.I. 2010/369, S.S.I. 2011/211, S.S.I. 2011/364, S.S.I. 2012/163, S.S.I. 2013/52, S.S.I. 2013/109, S.S.I. 2014/93, S.S.I. 2014/154, S.S.I. 2015/96 and S.S.I. 2017/27.

⁽²⁴⁾ The definition of “surviving partner” was inserted by S.S.I. 2008/225.

⁽²⁵⁾ Regulation 2C was inserted by S.S.I. 2015/96.

Amendment of regulation 7

58. In regulation 7 (surviving partner allowances), for paragraph (3)(**26**) substitute—

“(3) Except if paragraph (3A) applies, a surviving partner is not entitled to receive an allowance—

(a) if the marriage took place or the civil partnership was formed after the later of the date on which—

(i) the deceased last ceased to be employed as person to whom these Regulations apply; or

(ii) the earning ability of the deceased was permanently reduced as a result of the injury or disease; or

(b) if the Scottish Ministers are not satisfied that the deceased’s partner was the deceased’s scheme partner for a continuous period of at least two years ending with the later of the dates referred to in (a).”.

Amendment of regulation 8

59. In regulation 8 (child’s allowance), in paragraph (2)(c), for “nominated partner”(27) substitute “surviving scheme partner”.

Amendment of regulation 9

60. In regulation 9 (dependent relative’s allowance), in paragraph (1)(a),for “nominated partner’s”(28) substitute “surviving scheme partner’s”.

Amendment of regulation 11

61. In regulation 11 (lump sum payment on death), in paragraph (1)(b), for “nominated partner”(29) substitute “surviving scheme partner”.

PART 7

Amendments to the National Health Service Pension Scheme (Transitional and Consequential Provisions) (Scotland) Regulations 2015

General

62. The National Health Service Pension Scheme (Transitional and Consequential Provisions) Regulations 2015(**30**) are amended in accordance with regulation 63.

Amendment of regulation 5

63. In regulation 5 (nominations, notices and declarations), in paragraph (1), in the table—

(a) in column 1, omit in full—

(i) the entry starting “A notice given for the purposes of regulation G14 of the 2011 Regulations”,

(26) Paragraph (3) was last substituted by [S.S.I. 2008/225](#).

(27) The expression “nominated partner” was inserted by [S.S.I. 2008/225](#).

(28) The expression “nominated partner’s” was inserted by [S.S.I. 2008/225](#).

(29) The expression “nominated partner’s” was inserted by [S.S.I. 2008/225](#).

(30) [S.S.I. 2015/95](#), to which there are amendments not relevant to this instrument.

- (ii) the entry starting “A declaration made for the purpose of regulation 2.E.2 or 3.E.2 of the 2013 Regulations”,
- (b) in column 2, omit in full the entry starting “A declaration made for the purpose of regulation 113 of the 2015 Regulations.”.

PART 8

Miscellaneous

Option to persons detrimentally affected by these Regulations

64.—(1) This regulation applies in relation to any benefit which is being paid or may become payable under the regulations amended by these Regulations to or in respect of a person who—

- (a) served in an employment or office which qualified the person to participate in the benefits provided under the regulations amended by these Regulations, and
- (b) ceased to serve in that employment or office before these Regulations came into force.

(2) Where, in a case to which this regulation applies, any provision of Part 2 or Part 3 of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision will not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) is to be given in writing and delivered to the Scottish Ministers within six months of the coming into force of these Regulations or such longer period as the Scottish Ministers may allow.

St Andrew’s House,
Edinburgh
16th February 2021

IVAN McKEE
Authorised to sign by the Scottish Ministers

We consent

22nd February 2021

JAMES MORRIS
DAVID RUTLEY
Two of the Lords Commissioners of
Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service Pension Scheme (Scotland) Regulations 2011 (“the 2011 Regulations”), the National Health Service Pension Scheme (2008 Section) (Scotland) Regulations 2013 (“the 2013 Regulations”), the National Health Service Pension Scheme (Scotland) Regulations 2015 (“the 2015 Regulations”), the National Health Service Pension Scheme (Scotland) (Additional Voluntary Contributions) Regulations 2018 (“the AVC Regulations”), the National Health Service (Scotland) (Injury Benefits) Regulations 1998 (“the Injury Benefits Regulations”) and the National Health Service Pension Scheme (Transitional and Consequential Provisions) (Scotland) Regulations 2015 (“the Transitional Regulations”).

The Regulations come into force on 1 April 2021, although regulation 1(3) provides for certain provisions to come into force on 1 April 2015 and regulation 1(4) to (7) provides for certain provisions to take effect from earlier dates. Section 12(1) of the Superannuation Act 1972 and section 3(3)(b) of the Public Service Pensions Act 2013 provide that regulations made under those Acts may make retrospective provision.

The following are the main changes brought about by this instrument.

First it amends the provisions relating to employee contributions and inserts new tables reflecting revised employee contribution rates for 2020/21. In particular, regulations 4, 28, 30, 38, and 46, insert updated employee contribution bands for the scheme year 2020-21. Regulation 47 inserts updated contribution bands for practitioners and non-GP providers for the scheme year 2020-21.

Second the instrument amends the provisions relating to survivor benefits. In particular, the requirement that a cohabiting surviving partner must have been nominated by the member in order to qualify for a surviving nominated partner’s pension (i.e. they must have been a “nominated partner”) is removed. There remain (unchanged) a number of conditions that a cohabiting surviving partner must satisfy in order to qualify for a “survivor pension”. The removal of the nomination requirement has retrospective effect and starts on 1 April 2011 in respect of the 2011 Regulations and on 1 July 2013 in respect of the 2013 Regulations (the dates on which survivor pensions were introduced for unmarried partners).

The main changes in respect of survivor benefits are as follows. Regulation 12 replaces the current provisions in regulation G14 of the 2011 Regulations regarding eligibility for a surviving nominated partner’s pension (in particular the requirement that the Scottish Ministers are in receipt of a nomination is removed), with provisions regarding the eligibility of a surviving scheme partner to receive a surviving scheme partner’s pension. Regulation 3(2) inserts the definitions “scheme partner” and “surviving scheme partner” into the 2011 Regulations. Regulations 5, 6, 7, 15(b), 16 to 20, 21(3), 22(3), 23 to 25, 26(2) and 28(4) make consequential changes.

Regulations 33 and 40 introduce a new definition of “surviving scheme partner” into the 2011 Regulations in place of “surviving nominated partner”. Consequential changes are made in regulations 32, 34, 35(2), 39, 41 and 42(2).

Similarly, regulation 49 introduces a new provision setting out the requirement to be a “surviving scheme partner” (instead of a “nominated partner”) into the 2015 Regulations. Regulations 48, 50 and 51(2) make consequential changes to terminology.

In the 2011 Regulations only, survivor pensions for nominated partners and spouses of female members are generally based on the member’s service from 6 April 1988 onwards. As a consequence, an additional survivor pension (for dependent surviving spouses and co-habiting partners) based

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

on the member's service before that date may be available, if certain qualifying criteria are met. Regulation G15 of the 2011 Regulations provides for this additional survivor pension. Regulation 19 makes consequential amendment to this to reflect the removal of the nomination requirement in regulation G14 but the nomination requirement in respect of the additional survivor pension remains in regulation G15.

Provisions that allow a partner nomination made under the 2011 Regulations to have effect under the 2013 Regulations are removed by regulations 36, 37, 43 and 44.

Further consequential amendments relating to survivor benefits are also made by regulations 53 and 54 (the AVC Regulations), regulations 56 to 61 (the Injury Benefits Regulations) and regulation 63 (the Transitional Regulations).

The third main change effected by this instrument is to provide the survivors of civil partners and same sex spouses with the same pension as widows under the 2011 Regulations. The amendments are made with retrospective effect, from 5 December 2005 for civil partners (the date civil partnerships were introduced) and from 16 December 2014 for same sex couples (the date marriage of same sex couples was introduced).

Survivor benefits for civil partners and same sex spouses are already the same as opposite sex spouses in the 2013 Regulations and the 2015 Regulations. Accordingly amendments are not being made to those regulations for this third purpose. Under regulation A4 of the 2011 Regulations, the provisions relating to civil partnerships apply to same sex spouses with effect from 16 December 2014. Amendments are therefore only necessary to the provisions regarding civil partners.

The main changes in respect of this are as follows. Survivor benefits for same sex couples are the same as for widows, with a number of variations. This instrument removes those variations. In particular, regulation 8 removes the provision that provides that a member's service before 6 April 1988 is disregarded for the purposes of calculating survivor pensions for civil partners or same sex spouses. Regulation 9 removes the requirement for a member to nominate their civil partner or same sex spouse to receive an additional survivor's pension in respect of that service as that is unnecessary. Regulations 10, 11 and 28(3) remove further provisions in relation to purchasing a survivor pension for service before 6 April 1988, again because these are no longer necessary. Regulations 14, 15(a) and (c), 21(2), 22(2) and 27 make further consequential changes.