
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations establish new pension arrangements for people employed in the National Health Service in Scotland on or after 1st April 2008 wishing to join the National Health Service Superannuation Scheme for Scotland (“the scheme”) or in such employment immediately before that date, but not already members of that scheme under the pension arrangements contained in the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I.1995/365).

These Regulations are divided into four parts, each with chapters dealing with different aspects of the pension scheme arrangements.

Part 1 contains introductory material, and sets out the circumstances in which Parts 2 to 4 apply. It also sets out the provisions relating to scheme reports, accounts and cost sharing.

Part 2 sets out the provisions applying to people working in the National Health Service in Scotland as officers and non GP providers (e.g. officer members who are partners in a GP practice).

Chapter 2.A covers general interpretive matters in Part 2. Regulation 2.A.1 contains general definitions. The remainder of Chapter 2.A contains definitions relating to entitlement to and calculation of benefits. Regulations 2.A.2 to 2.A.7 deal with the meaning of “pensionable service” and “qualifying service” and how service is calculated. Regulations 2.A.8 to 2.A.14 deal with “pensionable pay” and “reckonable pay” and regulation 2.A.15 deals with “Out of Hours” providers who are not otherwise NHS employing authorities.

Chapter 2.B sets out the conditions that must be met for a person to be eligible to belong to the scheme under the new pension scheme arrangements, and also deals with leaving and rejoining it. Most people will become members of the scheme automatically on entering their employment unless they wish not to belong to it.

Chapter 2.C deals with contributions to the scheme. Regulations 2.C.1 to 2.C.4 deal with members' compulsory contributions. Regulations 2.C.5 to 2.C.7 relate to employers' contributions and the circumstances in which they can be required to give guarantees and indemnities etc. to cover their contributions. Regulations 2.C.8 to 2.C.18 are about the members' rights to purchase additional pension by paying extra contributions either by instalments over a period of up to 20 years or by lump sum. Regulation 2.C.11 enables such pension to be bought for a member by the member's employer.

Chapter 2.D deals with the pension to which members become entitled on retirement. Regulations 2.D.1 to 2.D.13 set out different entitlements for those who retire on reaching 65, those who leave earlier, those who retire later with an actuarial increase, those who want earlier payment with actuarial reduction, those who wish to retire partially with only part of their pension in payment, those who retire early due to ill health or on the termination of their employment on the grounds of efficiency or redundancy, and pension credit members (those who have a right to benefits in scheme as a result of a pension sharing order). These Regulations also enable members whose pay is reduced to have higher paid earlier service treated separately. Regulations 2.D.14 and 2.D.15 enable members to exchange pension for lump sums. Regulations 2.D.16 and 2.D.17 deal with the effect of pension sharing on divorce or nullity of marriage and dissolution of civil partnership Regulations 2.D.18 to 2.D.20 enable members to allocate part of their pension to others. Regulation 2.D.21 deals with dual capacity membership and 2.D.22 deals with guaranteed minimum pensions under section 14 of the 1993 Act.

Chapter 2.E sets out the benefits that are payable on the death of a member. It provides for pensions to be payable to surviving spouses, civil partners and other adult dependants and eligible children. It

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

also provides for lump sums to be paid to nominees, adults to whom a pension is payable or personal representatives.

Chapter 2.F deals with members' rights under the scheme to have a transfer payment paid by the scheme into another scheme, and the right of a member to have a transfer payment from another scheme accepted by the scheme so that the member is entitled to count further pensionable service in the scheme (the rights to transfers out supplement the members' rights under the Pension schemes Act 1993 (c. 48).) There are special arrangements for those going to or from other public sector schemes, those who transfer in or out with a number of other similar employees, and transfers with EU and other overseas transfers.

Chapter 2.G deals with members who have more than one period of service that counts for the scheme because they are re-employed. As a general rule the rights relating to such separate periods of service are dealt with separately, but this does not apply if aggregation of the periods would give rise to more favourable benefits. There are also special rules provide for ill health pensioners and those transferred out of the scheme on a transfer of an undertaking.

Chapter 2.H deals with the abatement of pensions in certain circumstances where pensioners are re-employed in the National Health Service in Scotland.

Chapter 2.J contains miscellaneous and supplementary provisions. Regulation 2.J.1 deals with the appointment of the scheme administrator, regulation 2.J.2 details the procedure for claims, regulation 2.J.3 allows the Scottish Ministers to extend the time limit in any particular case, 2.J.4 deals with beneficiaries who are incapable of looking after their affairs and regulation 2.J.5 deals with commutation of small pensions. The forfeiture of benefits in certain circumstances is covered by regulations 2.J.6 and 2.J.7, the deduction of tax and the provision of information relevant for tax purposes is covered by regulation 2.J.8 and the payment of interest where the payment of benefits or refunds of contributions are late by regulation 2.J.9.

Part 3 sets out the provisions applying to people working in the National Health Service in Scotland as practitioners or who work for Out of Hours providers who are not NHS employers but who have been contracted by a health board to provide out of hours primary medical services

Chapter 3.A contains definitional matters. Regulation 3.A.1 contains general definitions. The remainder of Chapter 3.A contains definitions that are relevant for entitlement to and calculation of benefits under the scheme. Regulations 3.A.3 to 3.A.6 deal with the meaning of “pensionable service” and “qualifying service” and how service is calculated. Regulations 3.A.7 to 3.A.14 deal with “pensionable earnings” and 3.A.15 covers out of hours providers.

Chapter 3.B sets out the conditions that must be met for a person to be eligible to belong to the scheme, and also deals with leaving and rejoining it. Most people will become members of the scheme automatically on entering their employment unless they wish not to belong to it.

Chapter 3.C deals with contributions to the scheme. Regulations 3.C.1 and 3.C.2 are about members' compulsory contributions. Regulations 3.C.3 to 3.C.5 relate to employers' contributions and the circumstances in which they can be required to give guarantees, indemnities etc. to cover their contributions. Regulations 3.C.6 to 3.C.15 are about the members' rights to purchase additional pension by paying extra contributions either by instalments over a period of up to 20 years or by lump sum. Regulation 3.C.9 enables such pension to be bought for a member by the member's employer.

Chapter 3.D deals with the pensions to which members become entitled on retirement. Regulations 3.D.1 to 3.D.9 set out different entitlements for those who retire on reaching 65, those who leave earlier, those who retire later with an actuarial increase, those who want earlier payment with actuarial reduction, those who wish partially to retire with only part of their pension in payment, those who retire early with ill health. and pension credit members. Regulations 3.D.10 and 3.D.11 enable members to exchange pension for lump sums. Regulations 3.D.12 and 3.D.13 deal with the effect of pension sharing on divorce or nullity of marriage and dissolution of civil partnership. Regulations 3.D.14 to 3.D.16 enable members to allocate part of their pension to others. 3.D.17 deals with dual capacity membership and 3.D.18 deals with guaranteed minimum pensions.

Chapter 3.E sets out the benefits that are payable on the death of a member. It provides for pensions to be payable to surviving spouses, civil partners and other adult dependants and eligible children. It also provides for lump sums to be paid to nominees, adults to whom a pension is payable or personal representatives.

Chapter 3.F deals with members' rights under the scheme to have a transfer payment paid by the scheme into another scheme, and the right of a member to have a transfer payment from another scheme accepted by the scheme so that the member is entitled to count further pensionable service in the scheme (the rights to transfers out supplement the members' rights under the Pension schemes Act 1993 (c. 48).) There are special arrangements for those going to or from other public sector schemes, those who transfer in or out with a number of other similar employees, and transfers with EU and other overseas transfers.

Chapter 3.G deals with members who have more than one period of service that counts for the scheme because they are re-employed. As a general rule the rights relating to such separate periods of service are dealt with separately, but this does not apply if aggregation of the periods would give rise to more favourable benefits. There are also special rules to provide for ill health pensioners e.g. regulation 3.G.4 covers re-employment in respect of upper tier pensioners returning to work and the effect on their pension depending on whether they return to NHS employment or other employment and whether the lower earnings limit (for National Insurance purposes) has been reached. Regulation 3.G.5 deals with lower tier ill health pensioners returning to work and how their later service will be treated if they again become entitled to a further ill health pension.

Chapter 3.H deals with the abatement of pensions in certain circumstances where pensioners are re-employed in the National Health Service in Scotland.

Chapter 3.J contains miscellaneous and supplementary provisions. Regulation 3.J.1 deals with the appointment of the scheme administrator, regulation 3.J.2 details the procedure for claims, regulation 3.J.3 allows the Scottish Ministers to extend the time limit in any particular case, regulation 3.J.4 deals with beneficiaries who are incapable of looking after their affairs and regulation 3.J.5 deals with commutation of small pensions. The forfeiture of benefits in certain circumstances is covered by regulations 3.J.6 and 3.J.7, the deduction of tax and the provision of information relevant for tax purposes is covered by regulation 3.J.8 and the payment of interest where the payment of benefits or refunds of contributions are late by regulation 3.J.9.

Part 4 sets out the provisions applying to people who have worked in the National Health Service in Scotland as both officers and practitioners. Chapter 4.A deals with the application of Part 4 and contains definitional matters. Chapter 4.B compares benefit entitlement under Part 2 and 3 of these Regulations. Chapter 4.C provides for the modification of members' retirement benefits and death benefits under Parts 2 and 3 of these Regulations.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.