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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 224**

**The National Health Service Pension  
Scheme (Scotland) Regulations 2008**

**PART 3**

**BENEFITS FOR PRACTITIONERS, ETC.**

**CHAPTER 3.D**

**MEMBERS' RETIREMENT BENEFITS**

*Dual capacity membership*

**Dual capacity membership**

- 3.D.17.**—(1) This paragraph applies if a member is—
- (a) a member of the scheme of 2 or more of the kinds specified in paragraph (2);
  - (b) a pensioner member in respect of 2 or more pensions; or
  - (c) a deferred member in respect of 2 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 3.D.14) as if the member were 2 or more members of the kinds in question (so that 2 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 3.A.3(3) (45 year limit);
  - (b) regulation 3.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 3.G.3 (exception to general rule in 3.G.2 about separate treatment of pay and service);
  - (d) regulation 3.G.4 (effect of re-employment on upper tier ill health pensions);
  - (e) regulation 3.G.5 (re-employed lower tier ill health pensioners); or

- (f) Chapter 3.H (abatement).
- (5) If a person who is a pension credit member is entitled to 2 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 3.D.14) as if the person were 2 or more persons, each being entitled to one of the pension credits (so that 2 or more pensions or lump sums are payable to the one pension credit member); and
  - (b) the amounts of those benefits are determined accordingly.