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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 226**

**The National Health Service Superannuation  
Scheme (Scotland) Amendment Regulations 2008**

**Insertion of new regulations Q8 to Q17**

**52.** After regulation Q7 (part payment for additional service or unreduced retirement sum) insert—

**“Option to pay additional periodical contributions to purchase additional pension**

**Q8.**—(1) A member who is in pensionable employment may opt to make additional periodical contributions during the contribution option period to increase by a specified amount—

- (a) the benefits payable to the member under Parts E (benefits for members) and S (members who return to pensionable employment after pension becomes payable) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependant children at the same rate as the member’s pension for three to six months under Parts G (widows and widowers) , H (dependent child allowance) and S); or
- (b) those benefits and the benefits payable in respect of surviving partners and dependent children under Parts G, H and S.

(2) A member may exercise the option under paragraph (1) more than once.

(3) If a member exercises an option under paragraph (1), the member’s employing authority must—

- (a) deduct the member’s contributions from the member’s earnings; and
- (b) pay them to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid.

(4) The annual amount of the periodical contributions payable at the beginning of the contribution option period must not be—

- (a) an amount less than the minimum amount; or
- (b) an amount other than a multiple of that amount.

(5) In paragraph (4) “minimum amount” means the amount that would, in accordance with tables prepared for the Scottish Ministers by the scheme actuary for the scheme year in which the contributions are paid, be the amount of the contributions required to secure an increase in the member’s pension of—

- (a) £250; or
- (b) such other amount as the Scottish Ministers may for the time being determine assuming that the contributions are made in accordance with the option for the remainder of the option period.

(6) The tables referred to in paragraph (5)—

- (a) may specify different amounts for different descriptions of members; and

- (b) may be amended during a scheme year, but no such amendment affects the contributions payable under any option during that year, except an option under which contributions begin to be paid after the date on which the amendment takes effect.

(7) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation Q10 (member's option to pay lump sum contributions to purchase additional pension); or
- (b) contributions made under regulation Q11 (payment of additional lump sum contributions by employing authority),

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine.

(8) In these Regulations “the contribution option period”, in relation to an option under this regulation, means a period of whole years, that—

- (a) is specified in the option;
- (b) begins with the pay period in respect of which the first contribution is made under the option;
- (c) is not less than 1 year nor more than 20 years; and
- (d) does not end later than the member's chosen birthday as specified in the option.

(9) For the purposes of this Part, a member's 'chosen birthday' must be either his 60th or 65th birthday.

### **Effect of member being absent or leaving and rejoining the scheme during the contribution option period**

**Q9.**—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation Q8—

- (a) is absent from work for any of the reasons described in regulation P1(2) (maternity, paternity and adoption absence); or
- (b) is on a leave of absence in accordance with regulation P2 (absence because of illness or injury).

(2) If paragraph (1) applies—

- (a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation D1; and
- (b) where the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation D1 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

(3) This paragraph applies if a member—

- (a) exercises the option under regulation Q8;
- (b) leaves pensionable employment during the contribution option period; and
- (c) returns to pensionable employment within 12 months of leaving.

(4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after returning to pensionable employment unless a refund of contributions has been made to the member under regulation E9 (early leavers' entitlement to refund of contributions).

(5) For the purposes of paragraph (4) it does not matter whether the member has paid any of the repaid contributions to the Scottish Ministers in accordance with regulation E9(3).

### **Member's option to pay lump sum contributions to purchase additional pension**

**Q10.**—(1) A member who is in pensionable employment may opt to make a single lump sum contribution to increase by a specified amount—

- (a) the benefits payable to the member under Parts E and S, including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependant children at the same rate as the member's pension for three to six months under Parts G, H and S; or
- (b) those benefits and the benefits payable in respect of surviving partners and dependent children under Parts G, H and S.

(2) A member may only make a contribution under this regulation of an amount—

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

(3) In paragraph (2) “the minimum amount” means the amount that is, in accordance with tables prepared for the Scottish Ministers by the scheme actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member's pension of—

- (a) £250; or
- (b) such other amount as the Scottish Ministers may for the time being determine.

(4) A member may exercise the option under paragraph (1) more than once.

(5) If a member exercises an option under paragraph (1) the additional contribution is payable by the member to the employing authority—

- (a) by deduction from the member's earnings or otherwise; and
- (b) before the end of the period of 1 month beginning with the day on which the member is notified by the Scottish Ministers that the option is accepted.

(6) The employing authority must pay the additional contributions to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.

(7) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation Q8; or
- (b) contributions made under regulation Q11,

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine.

### **Payment of additional lump sum contributions by employing authority**

**Q11.**—(1) The employing authority of a member who is in pensionable employment may opt to make a single lump sum contribution to increase by a specified amount—

- (a) the benefits payable to the member under Parts E and S, including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependant children at the same rate as the member's pension for three to six months under Parts G, H and S; or

- (b) those benefits and the benefits payable in respect of surviving partners and dependent children under Parts G, H and S.
- (2) An employing authority may only make a contribution under this regulation of an amount—
  - (a) that is not less than the minimum amount (as defined in regulation Q10(3)); or
  - (b) a multiple of that amount.
- (3) An employing authority may only exercise the option under paragraph (1) with the member's consent, but may exercise it more than once in respect of the same member.
- (4) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—
  - (a) contributions made under regulation Q8; or
  - (b) contributions made under regulation Q10,
 may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine.
- (5) A contribution under this regulation must be paid by the employing authority to the Scottish Ministers within one month of the date on which the authority gave the Scottish Ministers notice under regulation Q12(2).

#### **Exercise of options under regulations Q8, Q10 and Q11**

- Q12.**—(1) A member exercising an option under regulation Q8 or Q10 must do so by giving notice in writing to the employing authority, giving such information as may be required.
- (2) An employing authority exercising an option under regulation Q11 must do so by giving notice in writing to the Scottish Ministers, giving such information as may be required.
  - (3) An option under regulation Q8, Q10 or Q11 may not be exercised during a period when the member is absent from work.
  - (4) For the purposes of these Regulations—
    - (a) a member is treated as exercising an option under regulation Q8 or Q10 on the date on which the employing authority receives the member's notice under paragraph (1); and
    - (b) an employing authority is treated as exercising an option under regulation Q11 on the date on which the Scottish Ministers receives the authority's notice under paragraph (2).
  - (5) The Scottish Ministers—
    - (a) must refuse to accept an option exercised under—
      - (i) regulation Q8 if not satisfied that that the member is in good health and there is no reason why the member's health should prevent the member from paying the contributions for the whole contribution period; and
      - (ii) regulation Q10 or Q11 if not satisfied that the member is in good health; and
    - (b) may refuse to accept an option under regulation Q8, Q10 or Q11 in any other circumstances.
  - (6) If the Scottish Ministers refuse to accept an option described in paragraph (5), the Scottish Ministers must give notice in writing of that fact—
    - (a) in the case of an option exercised under regulation Q8 or Q10, to the member; and

- (b) in the case of an option exercised under regulation Q11, to the employing authority and the member.
- (7) These Regulations apply as if an option—
  - (a) under regulation Q8, Q10 or Q11 had not been exercised if the Scottish Ministers refuse to accept the option;
  - (b) under regulation Q10 had not been exercised if the payment is not received by the employing authority—
    - (i) before the end of the period of 1 month beginning with the day on which the Scottish Ministers notify the member of the acceptance of the option; or
    - (ii) if it is earlier, on or before the member’s chosen birthday; and
  - (c) under regulation Q11 had not been exercised if the payment is not received by the Scottish Ministers on or before the member’s chosen birthday.

### **Cancellation and cessation of options under regulation Q8**

**Q13.—**(1) A member may cancel an option under regulation Q8(1) by giving the employing authority notice in writing.

(2) If a member cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date on which the employing authority receives the notice and all subsequent pay periods.

(3) If it appears to the Scottish Ministers that the requirement in regulation Q8(7) will not be met if the member continues to make periodical contributions under an option exercised under regulation Q8, the Scottish Ministers may cancel the option by giving the member notice in writing.

(4) If the Scottish Ministers cancel such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods.

### **Effect of payment of additional contributions under this Part**

**Q14.—**(1) This regulation applies if—

- (a) an option is exercised by a member under regulation Q8 and all the contributions to be made under the option are made; or
- (b) an option is exercised by a member under regulation Q10 or by a member’s employing authority under regulation Q11 and the lump sum payment is made.

(2) Subject to paragraph (7) the member’s pension is increased by the full amount of the increase to be made in accordance with the terms of the option after the final adjustment in that amount in accordance with regulation Q17.

(3) Paragraph (2) is without prejudice to any reduction falling to be made in accordance with regulation Q15(5) as a result of the member becoming entitled to payment of a pension before his chosen birthday.

(4) In the case of an option under regulation Q8(1)(b), Q10(1)(b) or Q11(1)(b), any benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations is increased by the appropriate amount.

(5) In paragraph (4), subject to regulations Q15 and Q16(3), “the appropriate amount” means—

- (a) in the case of a surviving partner pension payable under regulation G2 (widow’s pension when member dies in pensionable employment), G4 (widow’s pension

when member dies with preserved pension) or S4A(10) (benefits on death in pensionable employment after pension under regulation E2A becomes payable), 37.5% of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));

- (b) in the case of a surviving partner pension payable under regulation G3 (widow's pension when member dies after pension becomes payable), 37.5% of the amount of the increase in the member's pension as a result of the option;
- (c) in the case of a child allowance payable under regulation H3 (child allowance when member dies in pensionable employment), H5 (child allowance when member dies with preserved pension) or S4A(17)(b), the appropriate fraction of 75% of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3)); and
- (d) in the case of a child allowance payable under regulation H4 (child allowance when member dies after pension becomes payable) or S4A(17)(a), the appropriate fraction of 75% of the amount of the increase in the member's pension as a result of the option.

(6) For the purposes of paragraph (5) the "appropriate fraction" means the same fraction as that applied to the member's pension in order to calculate the amount of child allowance payable in respect of that member.

(7) Paragraph (8) applies only to an option under regulation Q8(1)(a), Q10(1)(a) or Q11(1)(a) where a pension is to be paid for either three or six months at the same rate as the member's pension was being paid at the date of that member's death.

(8) Any increase in a member's pension shall be included only in a benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations whilst it is being paid at the rate and for the duration of one of the periods referred to in paragraph (7).

### **Effect of death or early payment of pension after option exercised under regulation Q8, Q10 or Q11**

**Q15.**—(1) If a member in respect of whom an option under regulation Q8, Q10 or Q11 has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) an amount equal to the contributions paid under the option must be paid—
  - (i) in the case of an option under regulation Q8 or Q10, to the member's personal representatives; and
  - (ii) in the case of an option under regulation Q11, to the employing authority which made the contribution; and
- (b) regulation Q14(4) does not apply.

(2) If a member in respect of whom an option under regulation Q8 has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation Q14(4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation Q8, Q10 or Q11 has been exercised becomes entitled to a pension under regulation E2A as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) regulation Q14(2) and (4) does not apply; and
- (b) an amount equal to the contributions paid under the option must be paid—
  - (i) in the case of an option under regulation Q8 or Q10, to the member; and
  - (ii) in the case of an option under regulation Q11, to the employing authority which made the contribution.

(4) If a member in respect of whom an option under regulation Q8 has been exercised becomes entitled to a pension under regulation E2A before the end of the contribution period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation Q14(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation Q8, Q10 or Q11 has been exercised—

- (a) becomes entitled to a pension under regulation E3, E3A, or E5;
- (b) becomes entitled to a pension under regulation E1 or E6 before reaching the age of 60; or
- (c) becomes entitled to a pension under regulation E1 after age 60 but before his chosen birthday,

the increase in the member's pension which would otherwise be due under regulation Q14(2) or regulation Q16 is reduced.

(6) The amount of the reduction is such amount as the Scottish Ministers determine, after consulting the scheme actuary, to be appropriate by reason of the payment of the increase before the member reaches his chosen birthday.

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

**Q16.**—(1) This regulation applies if—

- (a) the full number and amount of contributions due under an option under regulation Q8 for the whole contribution option period are not made; and
- (b) regulation Q15(1) to (4) do not apply.

(2) The increase in the member's pension is—

- (a) the appropriate proportion of the increase that would have been made under regulation Q14(2) if the full number and amount of contributions had been made; or
- (b) the appropriate proportion of the increase calculated in accordance with subparagraph (a) reduced in accordance with regulation Q15(6) if regulation Q15(5) applies to the member.

(3) In the case of an option under regulation Q8(1)(b), Q10(1)(b) or Q11(1)(b), the increase in any surviving partner or child allowance payable under Parts G, H and S in respect of the member is—

- (a) the appropriate proportion of the increase that would have been made under regulation Q14(4) if the full number and amount of contributions had been made; or
- (b) the appropriate proportion of the increase calculated in accordance with subparagraph (a) reduced in accordance with regulation Q15(5) if that regulation applies to the member.

(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary may determine and specify in guidance given to the Scottish Ministers.

(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 under an option under regulation Q8 for the whole contribution option period; and
- (b) the preservation requirement.

### **Revaluation of increases bought under options: members' pensions**

**Q17.**—(1) This regulation applies for the purposes of determining the final amount of the increase in a member's pension as a result of the exercise of an option under regulation Q8, Q10 or Q11.

(2) The amount of that increase immediately before the beginning date for that pension is found as set out in paragraph (3).

(3) Step 1—

calculate the amount of the increase in accordance with regulations Q14 to Q16 immediately before the beginning date (“the basic amount”);

Step 2—

multiply the basic amount by the retail prices index for the second month before that in which the person becomes entitled to it to find the Step 2 amount;

Step 3—

divide the Step 2 amount by the retail prices index for the month in which the option was exercised to find the Step 3 amount;

Step 4—

add to the Step 3 amount any amount by which the Step 3 amount would be increased under the Pensions (Increase) Act 1971<sup>(1)</sup> if it were the amount of the member's pension to find the Step 4 amount;

Step 5—

divide the Step 4 amount by the Step 3 amount to find the Step 5 factor; and

Step 6—

divide the Step 3 amount by the Step 5 factor to find the “adjusted basic amount”.

(4) The amount of the increase in a member's pension as a result of the exercise of an option under regulation Q8, Q10 or Q11 as at the beginning date for that pension is—

- (a) if the adjusted basic amount is greater than the basic amount, the adjusted basic amount; and
- (b) otherwise the basic amount.

(6) In this regulation “the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971.”.

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(1) 1971 c. 56.



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

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