
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 226

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

Amendment of regulation S2

57.—(1) Regulation S2 (reduction of pension on return to NHS employment) is amended as follows.

(2) For paragraphs (1) and (1A) substitute—

“(1) Subject to paragraph (12), this regulation applies to a member—

- (a) until he attains the age of 60;
- (b) who is in receipt of a relevant pension; and
- (c) who continues in, or subsequently returns to, NHS employment.

(1A) A relevant pension for the purpose of this regulation is a pension payable—

- (a) in respect of pensionable employment that ceased before 1st April 2008—
 - (i) under any of regulations E2 to E3C; or
 - (ii) in accordance with regulation E6(2)(b);
- (b) in respect of pensionable employment that ceased on or after 1st April 2008—
 - (i) any of regulations E2 to E3;
 - (ii) in accordance with regulation E3A(2)(d)(ii); or
 - (iii) except where paragraph (c) applies, in accordance with E6(2)(b); or
- (c) where the member is a special class officer—
 - (i) if regulation E1; or
 - (ii) if regulation R2(3)(b) applies to the member,
in accordance with E6(2)(b).”.

(3) For paragraph (3) substitute—

“(3) If the relevant pension is one referred to in paragraph (1A)(a) or (c)—

- (a) the member’s pension will be reduced by the appropriate amount; and
- (b) the appropriate amount is the difference between the member’s previous pay and the aggregate of—
 - (i) the amount of the member’s pension (including any amount by which that pension has been reduced pursuant to an election under regulation E11); and
 - (ii) the amount of the member’s pay from NHS employment for the financial year after the pension becomes payable.

(3A) If the relevant pension is one referred to in paragraph (1A)(b), the member’s pension will be reduced in accordance with paragraphs (3B) to (3D) if amount A exceeds the member’s previous pay.

- (3B) The reduction in that member's pension shall be equal to the difference between amount A and the member's previous pay, but shall not exceed amount B.
- (3C) For the purposes of paragraphs (3A) and (3B), amount A is the aggregate of—
- (a) the amount of the member's pay from NHS employment for any financial year after the pension becomes payable; and
 - (b) amount B.
- (3D) For the purposes of paragraphs (3B) and (3C), amount B is the difference between—
- (a) the amount of the member's pension (including any amount by which that pension has been reduced pursuant to an election under regulation E7); and
 - (b) the amount of an actuarially reduced pension.”.

(4) In paragraph (11), in the appropriate place in alphabetical order insert—

““actuarially reduced pension” means such annual amount as the Scottish Ministers determine, after consulting the scheme actuary, to be the amount that would have been payable to the member (regardless of whether the member has reached normal minimum pension age or protected minimum pension age) if the member had become entitled to a pension—

 - (a) calculated in accordance with regulation E5 at the time he became entitled to a pension mentioned in paragraph (1A)(b); and
 - (b) any increases to that amount payable under Part I of the Pensions (Increase) Act 1971 for that period;”.

(5) For paragraph (12), substitute—

“(12) This regulation does not apply to—

 - (a) practice staff in respect of whom a pension is payable under any of regulations E1 to E6 who were employed by a registered medical practitioner on both 31st August 1997 and 1st September 1997 and who—
 - (i) were ineligible to rejoin the scheme with effect from 1st September 1997; or
 - (ii) made an election not to rejoin the scheme with effect from that date and who have not cancelled that election; and
 - (b) members who are transferred into NHS employment as a result of a transfer of an undertaking to the employer.”.