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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 117**

**The National Health Service Superannuation  
Scheme (Scotland) Regulations 2011**

**PART H**

**DEPENDENT CHILD ALLOWANCE**

**Dependent child**

**H1.**—(1) This regulation applies to any child who satisfies the requirements of paragraph (2) and who is—

- (a) a child or grandchild of the member;
- (b) a stepchild of the member by a marriage entered into or a civil partnership formed before the date on which the member leaves pensionable employment or reaches age 70 (whichever occurs first), or a child legally adopted by the member before that date;
- (c) a brother or sister, or a child of a brother or sister, of the member or the member's spouse, civil partner or [<sup>F1</sup>surviving scheme partner] (any half-brother or step-brother being treated as a brother, and any half-sister or step-sister being treated as a sister, for this purpose); or
- (d) a child whom, immediately before the member left pensionable employment, reached age 70 or died (whichever occurs first), the member had intended to adopt, or a child who, at that time, had been dependent on the member for 2 years or (if less) half the child's life; or
- [<sup>F2</sup>(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;]

(2) The requirements of this paragraph are satisfied by any child described in paragraph (1) who is—

- (a) born before the member leaves pensionable employment, reaches age 70 or dies (whichever occurs first) and who is dependent on the member when the member dies and, if the member dies after leaving pensionable employment, was also dependent on the member when the member left pensionable employment; or
- (b) born one year or less after the member leaves pensionable employment, reaches age 70 or dies (whichever occurs first), and who either is dependent on the member both immediately after being born and when the member dies, or would have become dependent on the member if the member had not died before the child was born.

(3) A child is a dependent child of a person whose pensionable employment ceases on or after 1st April 2008 for so long as the child is—

- (a) under age 23; or
- (b) aged 23 or over and incapable of earning a living because of permanent physical or mental infirmity from which the child was suffering at the time the member died.

(4) Subject to paragraphs (7) and (8), a child is a dependent child of a person whose pensionable employment ceases on or before 31st March 2008 for so long as the child is—

- (a) under age 17; or
- (b) age 17 or over but has not reached the age of 23 and in full-time education; or
- (c) age 17 or over but has not reached the age of 23 and in full-time training for a trade, profession or vocation, for which the child is not receiving remuneration in excess of the allowable maximum; or
- (d) age 17 or over but has not reached the age of 23 and taking a break in full-time education, or full-time training for a trade, profession or vocation, where the Scottish Ministers are satisfied that the child intends to return to some such education or training; or
- (e) under age 19 and not engaged in remunerative full-time work and not entitled to income support in terms of section 124 of the Social Security Contributions and Benefits Act 1992<sup>M1</sup>.
- (f) age 17 or over but has not reached the age of 23 and is incapable of earning a living because of permanent physical or mental infirmity from which the child started to suffer whilst qualifying as a dependent child; but such a person will only be treated as a dependent child for so much of the period commencing with the day on which the child attains the age of 17 and ending immediately before the day on which the child attains the age of 23, during which the child remains incapable of earning a living.

(5) A child who is age 17 or over and who has ceased to be a dependent child will be treated as a dependent child if the child returns to full-time education, or to full-time training for a trade, profession or vocation for which the child is not receiving remuneration in excess of the allowable maximum, before reaching age 21 and within 12 months after ceasing to be a dependent child.

(6) In this regulation, the “allowable maximum” means the amount to which a pension of £1702 a year beginning on 11th April 1994 would have been increased under Part I of the Pensions (Increase) Act 1971<sup>M2</sup> at the date in question plus the yearly amount of any expenses necessarily incurred for the purposes of the education or training.

(7) A child who is incapable of earning a living because of permanent physical or mental infirmity from which the child was suffering at the time the member died as described in paragraph (4) will be treated as a dependent child for so long as the child remains incapable of earning a living.

(8) Where—

- (a) a dependent child became entitled to a child allowance under regulation H2 (payment of dependent child's allowance) before 6th April 2006; or
- (b) the dependency of a child born on, or before, 5th April 2007 is to be assessed in respect of a person who became entitled to a pension under regulations E1 to E12 on, or before, 6th April 2006,

paragraphs (4)(b), (c) and (d) are to be read as if they did not include the words “but has not reached the age of 23”, paragraph (4)(f) does not apply and paragraph (7) is to be read as if it included the words “or from which the child started to suffer whilst qualifying as a dependent child” after the words “member died”.

#### **Textual Amendments**

- F1** Words in [reg. H1\(1\)\(c\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **16(a)**

**F2** Reg. H1(1)(e) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **16(b)**

**Marginal Citations**

**M1** 1992 c.4.  
**M2** 1971 c.56.

**Payment of dependent child's allowance**

**H2.**—(1) Subject to the following provisions of this regulation, if a member dies in the circumstances described in any of regulations H3 to H7 and leaves a dependent child, the dependent child will be entitled to a child's allowance as described in this regulation and regulations H3 to H7.

(2) If a dependent child is born after the member's death, a child allowance shall be payable as if the child had been born before the member died.

(3) The child allowance will be paid to the child or, where the Scottish Ministers so decide, to some other person for the child's benefit and if there is more than one dependent child, the Scottish Ministers will divide the allowance between them in such shares as they decide from time to time.

(4) Where a child is a dependent child by virtue of regulation H1(4)(d), the child allowance ceases to be payable after 12 months if the child has not then returned to full-time education, or full-time training for a trade, profession or vocation, but will be reinstated if the child later returns to some such education or training and the Scottish Ministers are satisfied that the child intended to do so from the start of the break.

(5) No allowance will be payable to, or for the benefit of, a child who is incapable of earning a living because of permanent physical or mental infirmity for any period exceeding one month during which the child is maintained out of money provided by the Scottish Parliament in a hospital or other institution.

(6) Where a child is a dependent child in relation to 2 or more members, the child allowance will be payable in respect of the death of not more than 2 of those members and if an allowance would be payable in respect of 2 or more members then the allowance will be equal to the sum of the 2 highest allowances.

(7) The child allowance ceases to be payable when there is no remaining dependent child.

**Child allowance when member dies in pensionable employment**

**H3.**—(1) The child allowance payable in the case of a member who dies whilst in pensionable employment and under age 70 will be as described in this regulation.

(2) Subject to paragraph (3), if the member dies before 1st April 2008 and regulation T9(4), the allowance will be calculated, as described in whichever of paragraphs (5) to (13) apply, as a proportion of the pension that would have been payable to the member under this Section of the scheme if the member had retired through ill-health with a pension under regulation E2 (early retirement pension (ill-health)) on the day the member died.

(3) If the member dies on or after 1st April 2008 the allowance will be calculated as described in whichever of paragraphs (6) to (9) apply—

- (a) as a proportion of the pension that would have been payable to the member under this Section of the scheme if the member retired through ill health and had qualified for an upper tier pension under regulation E3 on the day the member died; or
- (b) if greater, the amount that pension would have been if it had been based on 10 years pensionable service.

(4) If the member dies with less than 5 years' pensionable service, the allowance will be calculated as if the pension described in paragraph (2) were based on the shorter of—

- (a) 10 years' pensionable service, and
- (b) the pensionable service the member could have completed if the member had stayed in pensionable employment until age 65.

(5) Subject to paragraphs (11) to (14) and regulation H7 if the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner of a parent), the allowance will be equal to one-quarter of the pension described in paragraph (2) if there is only one dependent child, and one-half if there are two or more.

(6) Subject to paragraphs (7) to (10), if the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or [<sup>F3</sup>scheme partner] of a parent), the allowance will be equal to—

- (a) one-quarter of the pension described in paragraph (3) if there is only one dependent child; and
- (b) one-half if there are two or more.

(7) If a widow's, widower's, surviving civil partner's or [<sup>F4</sup>surviving scheme partner's pension] is payable at the rate mentioned in regulation G2(5) (widow's pension when member dies in pensionable employment), the allowance payable in respect of any dependent child who is dependent on that widow, widower, surviving civil partner or surviving [<sup>F5</sup>scheme partner] will be payable from the day following the member's death.

(8) If a widow's, widower's, surviving civil partner's or [<sup>F6</sup>surviving scheme partner's pension] is payable at the rate mentioned in regulation G2(5) but there is a dependent child who is not dependent on that widow, widower, surviving civil partner or surviving [<sup>F7</sup>scheme partner], the allowance in respect of that child for the first three months after the member's death will be equal to the rate of member's pensionable pay when the member died.

(9) If a member dies leaving a dependent child and there is no surviving parent (or spouse, civil partner or [<sup>F8</sup>scheme partner] of a parent), the allowance will be equal to—

- (a) one-third of the pension described in paragraph (3) if there is only one dependent child; and
- (b) two-thirds if there are two or more,

except that the allowance for the first six months after the member's death will be equal to the rate of the member's pensionable pay when the member died.

(10) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or [<sup>F9</sup>scheme partner] of a parent) but there is no entitlement to a widow's, widower's or surviving civil partner's pension calculated under regulation G2, the allowance will be paid at the rates described in paragraph (9).

(11) If a widow's, widower's or surviving civil partner's pension is payable at the rate mentioned in regulation G2(2), no allowance shall be payable in respect of any dependent child who is dependent on the widow, widower or surviving civil partner until the end of the first six months after the member's death.

(12) If a widow's, widower's or surviving civil partner's pension is payable at the rate mentioned in regulation G2(2), but there is a dependent child who is not dependent on that widow, widower or surviving civil partner, the allowance in respect of that child for the first three months after the member's death will be equal to the rate of the member's pensionable pay when the member died.

(13) If the member dies leaving a dependent child and there is no surviving parent (or spouse or civil partner of a parent), the allowance will be equal to one-third of the pension described in paragraph (2) if there is only one dependent child and two-thirds if there are two or more; except

that the allowance for the first six months after the member's death will be equal to the rate of the member's pensionable pay when the member died.

(14) If the member dies leaving a dependent child and there is a surviving parent (or spouse or civil partner of a parent) but there is no entitlement to a widow's, widower's or surviving civil partner's pension under regulation G2, or regulation G2(8) applies, the allowance will be paid at the rates described in paragraph (13).

(15) The child allowance payable on a member's death where, on the day the member dies, the member is—

- (a) under the age of 70;
- (b) in NHS employment;
- (c) no longer required to pay contributions on or before 1st April 2008 pursuant to regulation D1(26) or (27) (contributions by members); and
- (d) except where regulation R4(4) applies, not in receipt of any pension under any of regulations E1 to E11,

will be as described in paragraph (2), but with the modifications set out in paragraph (16).

(16) The modifications referred to in paragraph (15) are—

- (a) in paragraph (2), for “on the day the member died” substitute “ on the member's last day of pensionable employment ”; and
- (b) in each of paragraphs (12) and (13), for “member's pensionable pay when the member died” substitute “ member's final year's pensionable pay ”.

(17) The child allowance payable on a member's death if, on the day the member died, the member is—

- (a) under the age of 75 if not a special class officer or under the age of 70 if a special class officer;
- (b) in NHS employment;
- (c) no longer required to pay contributions on or after 2nd April 2008 pursuant to regulation D1(26) or (27) (contributions by members); and
- (d) except where regulation R4(6) (members doing more than one job) applies, not in receipt of a pension under any of regulations E1 to E11,

will be as described in paragraph (3) but with the modifications set out in paragraph (18).

(18) The modifications referred to in paragraph (17) are—

- (a) in paragraph (3)(a) for “on the day the member died” substitute “ on the member's last day of pensionable employment ”; and
- (b) in paragraphs (8) and (9) for “member's pensionable pay when the member died” substitute “ member's final year's pensionable pay ”.

### **Textual Amendments**

- F3** Words in [reg. H3\(6\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **17(2)**
- F4** Words in [reg. H3\(7\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **17(3)(a)**

- F5** Words in reg. H3(7) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **17(3)(b)**
- F6** Words in reg. H3(8) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **17(4)(a)**
- F7** Words in reg. H3(8) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **17(4)(b)**
- F8** Words in reg. H3(9) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **17(5)**
- F9** Words in reg. H3(10) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **17(6)**

### **Child allowance when member dies after pension becomes payable**

**H4.**—(1) The child allowance payable in the case of a member who dies after a pension under this Section of the scheme becomes payable will be as described in this regulation.

(2) Subject to paragraphs (3) and (9)—

- (a) the allowance will be calculated as described in whichever of paragraphs (4) or (5) apply; and
- (b) where the member was, on the date of the member's death—
- (i) not a 2008 Section Optant within the meaning of regulation 2.K.1 (application of chapter 2.K) or regulation 3.K.1 (application of chapter 3.K) or a Waiting Period Joiner within the meaning of regulation 2.L.1 or 3.L.1 of the 2008 Section whose pensionable service—
- (aa) equalled, or exceeded, 10 years, as a proportion of the amount of the member's pension based on that service;
- (bb) was less than 10 years, as a proportion of the amount of that the member's pension would have been if it had been based on 10 years pensionable service;
- (ii) a 2008 Section Optant or Waiting Period Joiner, as a proportion of the amount of the member's pension.

(3) If the member's pensionable employment ceased on or before 31st March 2008, the allowance will be calculated in whichever of paragraphs (4) or (5) apply, as a proportion of the amount of the member's pension or, if greater, the amount that the member's pension would have been if it had been based on the shorter of—

- (a) 10 years pensionable service; and
- (b) the pensionable service the member could have completed if the member had stayed in pensionable employment until age 65.

(4) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or <sup>F10</sup>scheme partner] of a parent), the allowance will, subject to paragraphs (6) to (8), be equal to one-quarter of the pension described in paragraph (2) if there is only one dependent child, and one-half if there are two or more.

<sup>F11</sup>(5) If the member dies leaving a dependent <sup>F11</sup>child and there is no surviving parent (or spouse, civil partner or <sup>F12</sup>scheme partner] of a parent) the allowance—

- (a) for the period of 6 months beginning with the member's death, will be the greater of—
- (i) the amount of the member's pension calculated without regard to any reduction made under regulation S2 (reduction of pension on return to NHS employment); and
  - (ii) the amount of child allowance that would otherwise be payable under these Regulations; and
- (b) following the period referred to in sub-paragraph (a), will be equal to—
- (i) one-third of the pension described in paragraph (2) if there is only one dependent child; and
  - (ii) two-thirds of the pension described in paragraph (2) if there are two or more dependent children.]
- (6) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or [<sup>F13</sup>scheme partner] of a parent) but there is no entitlement to a widow's, widower's, surviving civil partner's or [<sup>F14</sup>surviving scheme partner's pension] under regulation G3 (member dies after pension becomes payable) the allowance will be paid at the rates described in paragraph (5).
- (7) If a widow's, widower's, surviving civil partner's or [<sup>F15</sup>surviving scheme partner's pension] is payable at the rate mentioned in regulation G3(2), no allowance shall be payable in respect of any dependent child who is dependent on the widow, widower, surviving civil partner or [<sup>F16</sup>surviving scheme partner] until the end of the first six months after the member's death.
- (8) If a widow's, widower's, surviving civil partner's or [<sup>F17</sup>surviving scheme partner's pension] is payable at the rate mentioned in regulation G3(2) but there is a dependent child who is not dependent on that widow, widower, surviving civil partner or [<sup>F18</sup>surviving scheme partner], the allowance in respect of that child for the first three months after the member's death, will be equal to the rate of the member's pension.
- (9) Where the member was in receipt of a pension payable under regulation E11 (early retirement pension (with actuarial reduction)), the member's pension referred to in paragraph (2) means the member's pension calculated without regard to the reduction made under regulation E11(2).
- (10) If a member who was in receipt of a substitute pension under regulation E5 dies before the end of the protection period that applies to that member under regulation E5(6)(a) or (b), the member's pension referred to in paragraph (2) means that member's original upper tier pension.
- (11) For the purpose of paragraphs (2) and (8), no account will be taken of any reduction to the member's pension under regulation E17 (general option to exchange part of pension for lump sum).

#### Textual Amendments

- F10** Words in [reg. H4\(4\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **18(2)**
- F11** Reg. H4(5) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation Scheme etc. \(Miscellaneous Amendments\) \(Scotland\) Regulations 2013 \(S.S.I. 2013/109\)](#), regs. 1(2), **14** (with reg. 71)
- F12** Words in [reg. H4\(5\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **18(3)**
- F13** Words in [reg. H4\(6\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **18(4)(a)**

- F14** Words in reg. H4(6) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **18(4)(b)**
- F15** Words in reg. H4(7) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **18(5)(a)**
- F16** Words in reg. H4(7) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **18(5)(b)**
- F17** Words in reg. H4(8) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **18(6)(a)**
- F18** Words in reg. H4(8) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2021 (S.S.I. 2021/102), regs. 1(2), **18(6)(b)**

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**Modifications etc. (not altering text)**

- C1** Reg. H4 applied (with modifications) (1.4.2015) by The National Health Service Pension Scheme (Transitional and Consequential Provisions) (Scotland) Regulations 2015 (S.S.I. 2015/95), regs. 1(b), **25(7)(a)**

### **Child allowance when member dies with preserved pension**

**H5.**—(1) The child allowance payable on the death of a member with a preserved pension under regulation E12 (preserved pension) that has not become payable will be as described in this regulation.

(2) Subject to paragraph (3), if the member dies within 12 months after leaving pensionable employment, the allowance will be calculated, as described in whichever apply of paragraphs (7) to (9) or regulation H7, as a proportion of the amount of the pension described in regulation H3(3) as if the member had died on the day the member left pensionable employment.

(3) Subject to paragraph (4), if the member's pensionable employment ceased on or before 31st March 2008 the allowance will be calculated, as described in whichever of paragraphs (7) to (9) apply, as a proportion of the pension that would have been payable to the member under this Section of the scheme if the member retired through ill health with a pension under regulation E2 on the day the member died.

(4) If the member has less than 5 years' pensionable service, the allowance will be calculated as if the pension described in paragraph (3) were based on the shorter of—

- (a) 10 years' pensionable service; and
- (b) the pensionable service the member could have completed if the member had stayed in pensionable employment until age 65.

(5) Subject to paragraph (6), if the member dies 12 months or more after leaving pensionable employment, the allowance will be calculated as described in whichever of paragraphs (7) to (9) apply, as a proportion of the amount of the member's preserved pension or, if greater, the amount that the preserved pension would have been if it had been based on 10 years' pensionable service.

(6) If the member's pensionable employment ceased on or before 31st March 2008, the allowance will be calculated as described in whichever of paragraphs (7) to (9) apply, as a proportion of the amount of the member's preserved pension or, if greater, the amount that the preserved pension would have been if it had been based on the shorter of—

- (a) 10 years' pensionable service; and



(b) the pensionable service the member could have completed if the member had stayed in pensionable employment until age 65.

(7) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or [<sup>F19</sup>scheme partner] of the parent) the allowance will be equal to one-quarter of the pension described in paragraphs (2) to (6) (whichever is applicable) if there is only one dependent child, and one-half if there are two or more.

(8) If the member dies leaving a dependent child and there is no surviving parent (or spouse, civil partner or [<sup>F20</sup>scheme partner] of the parent), the allowance will be equal to one-third of the pension described in paragraphs (2) to (6) (whichever is applicable) if there is only one dependent child, and two-thirds if there are two or more.

(9) If the member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or [<sup>F21</sup>scheme partner] of the parent) but there is no entitlement to a widow's, widower's, surviving civil partner's or [<sup>F22</sup>surviving scheme partner's pension] under regulation G4 (member dies with preserved pension) except where regulation G1(2) applies the allowance will be paid at the rate described in paragraph (8).

#### Textual Amendments

- F19** Words in [reg. H5\(7\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **19(2)**
- F20** Words in [reg. H5\(8\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **19(3)**
- F21** Words in [reg. H5\(9\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **19(4)(a)**
- F22** Words in [reg. H5\(9\)](#) substituted (with effect in accordance with reg. 1(4) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), regs. 1(2), **19(4)(b)**

#### Child allowance when member dies within 12 months after leaving pensionable employment without immediate or preserved pension

**H6.**—(1) This regulation applies if a member leaves pensionable employment without becoming entitled to a pension under any of regulations E1 to E12 and dies within 12 months after leaving.

(2) If the member dies before receiving a refund of contributions under regulation E15 the dependent child will be entitled to a child's allowance as described in this regulation.

(3) The child allowance will be calculated as described in regulation H5 (member dies with a preserved pension) as if, on leaving pensionable employment, the member had become entitled to a preserved pension calculated as described in regulation E12.

#### Increase of child allowance when child not dependent on surviving parent or spouse, civil partner or [<sup>F23</sup>scheme partner] of a parent

**H7.**—(1) If a member dies leaving a dependent child and there is a surviving parent (or spouse, civil partner or [<sup>F24</sup>scheme partner] of the parent) and at least one dependent child who is not being maintained by the surviving parent (or spouse, civil partner or [<sup>F24</sup>scheme partner] of the parent), the Scottish Ministers may increase the amount of the child allowance that would otherwise be payable under these Regulations.

(2) The allowance may, at the Scottish Minister's discretion, be increased up to an amount equal to the amount that would have been payable if there were no surviving parent (or spouse, civil partner or [<sup>F25</sup>scheme partner] of the parent).

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**Textual Amendments**

- F23** Words in [reg. H7](#) heading substituted (with effect in accordance with [reg. 1\(4\)](#) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), [regs. 1\(2\)](#), **20(2)**
- F24** Words in [reg. H7\(1\)](#) substituted (with effect in accordance with [reg. 1\(4\)](#) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), [regs. 1\(2\)](#), **20(3)**
- F25** Words in [reg. H7\(2\)](#) substituted (with effect in accordance with [reg. 1\(4\)](#) of the amending S.S.I.) by [The National Health Service Superannuation and Pension Schemes \(Miscellaneous Amendments\) \(Scotland\) Regulations 2021 \(S.S.I. 2021/102\)](#), [regs. 1\(2\)](#), **20(4)**

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Scotland) Regulations 2011, PART H.