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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 117**

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

**PART P**

**ABSENCE FROM WORK**

**Maternity, paternity and adoption absence**

**P1.**—(1) A period of absence for pregnancy or confinement, or for paternity, parental or adoption leave will count as pensionable service for so long as the member contributes to this Section of the scheme.

(2) If the earnings used to calculate a member's pensionable pay are reduced during a period of absence for pregnancy or confinement, or for paternity, parental or adoption leave, then for the purpose of calculating the member's contributions to this Section of the scheme, pensionable pay for the period of absence will be calculated on the basis of the member's reduced earnings and if the member's earnings are subsequently suspended the member's contributions will be calculated on the basis of the member's reduced earnings immediately before the commencement of unpaid absence.

(3) The rate of contributions payable will be the rate that would have been payable on the basis of reduced earnings in accordance with paragraph (2) had the member's reduced earnings excluded any earnings for a day during which the member returned to work for the purposes of keeping in touch with the workplace.

(4) If a member is not entitled to paid maternity, paternity, parental or adoption leave under the member's terms of employment or under statute, for the purpose of calculating the member's contributions to this Section of the scheme, pensionable pay for the period of absence will be calculated on the basis of the member's pensionable pay immediately before the absence started.

(5) For all purposes (including employer contributions) other than calculating the member's contributions to this Section of the scheme, a member's pensionable pay for the period of absence for pregnancy or confinement will be calculated as if no reduction were being made.

(6) For the purposes of this regulation, "maternity leave" includes any day during which the member returns to work for the purposes of keeping in touch with the workplace.

**Absence because of illness or injury**

**P2.**—(1) This regulation applies to members who are absent from work because of illness or injury.

(2) If the earnings used to calculate a member's pensionable pay are reduced during a period of absence for illness or injury—

- (a) for the purpose of calculating the member's contributions to this Section of the scheme, pensionable pay for the period of absence will be calculated on the basis of the member's reduced earnings; and

(b) for all other purposes, the member's pensionable pay for the period of absence will be calculated as if no reduction were being made.

(3) Except for the purpose of regulation Q3(4) (in which event no account will be taken of the suspension), if a member's earnings are suspended during a period of absence for illness or injury, the member will be treated as if the member had left pensionable employment, except that the member will not be entitled to any benefits or refund of contributions until the member actually leaves pensionable employment.

(4) If, on account of illness or injury, a member leaves pensionable employment or, by virtue of paragraph (3), is treated as if the member had left pensionable employment, without becoming entitled to a preserved pension, then if the member later returns to pensionable employment, regulation L1(4) (early leavers returning to pensionable employment) will apply as if the reference to "12 months" was a reference to "3 years".

(5) The benefits payable on the death of a member whose earnings are suspended during a period of absence from work for illness or injury will be calculated as if the member had died in pensionable employment on the day before the member's earnings were suspended, unless the member has exercised the right to require a transfer or buy-out in accordance with regulation M1 (member's right to require a transfer or buy-out).

#### **Absence for reasons other than illness or injury**

**P3.**—(1) If, on or after 1st April 2008, a member is on a leave of absence for reasons other than those referred to in regulation P2 the maximum period of such leave that will count as pensionable employment under this paragraph is—

- (a) where the member, for a continuous period of six months commencing with the member's first day of leave of absence, pays to this Section of the scheme contributions due from the member in accordance with regulation D1, six months; and
- (b) where the member, for a continuous period of less than six months commencing with the member's first day of leave of absence, pays to this Section of the scheme contributions due from the member in accordance with regulation D1, the period in respect of which those contributions were paid.

(2) If, having paid contributions for the period referred to in paragraph (1)(a), a member remains on leave of absence for reasons other than those referred to in regulation P2 the maximum period of such leave that will count as pensionable employment under this paragraph is—

- (a) where the member pays to this Section of the scheme both contributions due from the member in accordance with regulation D1 and contributions due from the member's employer in accordance with regulation D2 for a continuous period of 18 months commencing immediately after the expiry of the period referred to in paragraph (1)(a), 18 months; and
- (b) where the member pays to this Section of the scheme both contributions due from the member in accordance with regulation D1 and contributions due from the member's employer in accordance with regulation D2 for a continuous period of less than 18 months commencing immediately after the expiry of the period referred to in paragraph (1)(a), the period in respect of which those contributions were paid.

(3) If the earnings used to calculate a member's pensionable pay are reduced or suspended during a period of leave of absence for reasons other than illness or injury, "pensionable pay" (and, consequently, the member's contributions and benefits) for the period of absence will be calculated on the basis of the member's earnings immediately before the absence started.

(4) A member who is absent from work without leave and whose earnings are suspended will be treated as if the member had left pensionable employment, except that the member shall not be

entitled to any benefits or a refund of contributions until the member returns to or actually leaves pensionable employment.