

SCOTTISH STATUTORY INSTRUMENTS

2015 No. 94

**The National Health Service Pension
Scheme (Scotland) Regulations 2015**

PART 4

Contributions

CHAPTER 1

Determination and payment

Pensionable earnings

27.—(1) The pensionable earnings of a member (M) are defined by the appropriate entry in the Table where—

- (a) column 1 applies an identifying letter to the group to which M belongs;
- (b) column 2 describes M's employment in or engagement with a health service activity; and
- (c) column 3 specifies the nature of the income derived by M from the employment or engagement.

[^{F1}Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Group</i>	<i>Employment/Engagement</i>	<i>Income</i>
A	M is employed by an NHS organisation	Salary, wages, fees and other regular payments made to M in respect of M's employment, but not including—
B	M is employed by a medical contractor, a non-GP provider or a dental contractor	
C	M is employed by a determination employer	(a) bonuses; (b) payments made to cover expenses; (c) payments for overtime; or (d) pay awards or increases which are expressed by the Scottish Ministers to be non-consolidated.

Status: Point in time view as at 01/04/2019.

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<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Group</i>	<i>Employment/Engagement</i>	<i>Income</i>
D	M is— (a) a medical practitioner; (b) a dental practitioner; or (c) a non-GP provider	Practitioner income: see Schedule 8.]

(2) M's pensionable earnings may be attributable to M belonging concurrently to more than one group in the Table.

(3) If M is a non-GP provider—

- (a) paragraph (2) does not apply;
- (b) if M derives income from more than one entity as a non-GP provider, M's practitioner income in respect of only one of those may be taken into account for the purpose of establishing M's pensionable earnings.

(4) If, in addition to an employment mentioned in paragraph (1), M holds an honorary office or appointment, a distinction award payable to M as a consequence of holding the office or appointment is treated—

- (a) where M is in one employment, as pensionable earnings of that employment;
- (b) where M is in two or more employments, as pensionable earnings of such of the employments as the scheme manager thinks appropriate.

(5) In paragraph (1), a practitioner is a person who is—

- (a) a fully registered person (within the meaning of section 55 of the Medical Act 1983 ^{M1}) who is not a GP registrar and is—
 - (i) a medical practitioner;
 - (ii) an ophthalmic [^{F2}provider]; or
 - (iii) a locum practitioner; or
- (b) a dental practitioner.

Textual Amendments

- F1** Reg. 27(1) Table substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **3(a)**
- F2** Word in reg. 27(5)(a)(ii) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **3(b)**

Marginal Citations

- M1** 1983 c.54.

Pensionable earnings: break in service

28.—(1) Paragraph (3) applies to a member (M) if—

- (a) the absence condition is satisfied; and

- (b) the earnings used to calculate M's pensionable earnings under regulation 27 are reduced or cease.
- (2) The absence condition is that M is absent from work because of—
 - (a) illness or injury;
 - (b) maternity leave;
 - (c) adoption leave;
 - (d) paternity leave; or
 - (e) parental leave [^{F3}or shared parental leave].
- (3) Amounts equal to the pensionable earnings that M would have received but for the absence are treated as having been paid to M.
- (4) Paragraph (3) does not apply to M as respects any period after the earnings used to calculate M's pensionable earnings under regulation 27 have ceased to be paid to M if—
 - (a) M is neither a practitioner nor a non-GP provider; and
 - (b) M is within paragraph (2)(a).
- (5) For the purposes of regulations 27 to 31, amounts equal to reduced earnings to which paragraph (6) applies are treated as pensionable earnings.
- (6) The reduced earnings are the amount to which the earnings used to calculate M's pensionable earnings under regulation 27 are reduced—
 - (a) for any period while M is within paragraph (2);
 - (b) for any period (period A) while M is within paragraph (2)(b) to (e) and during a period following that period (period B) whilst M continues to be within that paragraph and M's earnings are reduced to zero.
- (7) For the purposes of paragraph (6)(b)—
 - (a) pay received by a woman on maternity leave in respect of days during which she returns to work for the purpose of keeping in touch with the workplace must be ignored;
 - (b) earnings reduced to zero in period B are treated as if they were reduced to the amount applicable to period A.
- (8) During any period of absence which counts as pensionable service under regulation 21(4) or (6) (up to 24 months leave of absence with full contributions), amounts equal to the rate of M's pensionable earnings immediately before the absence are treated as pensionable earnings.
- (9) This paragraph applies if M belongs to group D in regulation 27(1) and M's earnings have been reduced or ceased—
 - (a) if M is one of a number of practitioners or non-GP providers who have elected that each practitioner's or non-GP provider's pensionable earnings are calculated as if the partnership's aggregate pensionable earnings were equal to the amount of the partnership's aggregate pensionable earnings for the period of 12 months ending immediately before M's earnings were reduced or ceased;
 - (b) in any other case, M is treated as having continued to receive the same average rate of pensionable earnings as during that period.
- (10) If the earnings used to calculate M's pensionable earnings cease during a period of absence specified in paragraph (2)—
 - (a) a practitioner or non-GP provider within paragraph (2)(a) is treated as having continued in pensionable employment for a period of 12 months starting on the date on which M's earnings ceased and M will not be treated as having left pensionable employment until the end of that period;

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- (b) a practitioner or non-GP provider falling within paragraph (2)(b) to (e) who paid contributions on the basis of reduced earnings in accordance with paragraphs (5) and (6) (b) will continue to pay contributions at that rate, but no refund of contributions or other benefit is payable until M actually leaves pensionable employment;
 - (c) a member other than a practitioner or non-GP provider is treated (subject to paragraph (7)) as having left pensionable employment, but no refund of contributions or other benefit is payable until M actually leaves pensionable employment.
- (11) For the purposes of paragraph (10)(a)—
- (a) during the 12 month period, the practitioner's or non-GP provider's pensionable earnings are to be calculated in accordance with paragraph (9)(a) or (b);
 - (b) at the end of the 12 month period, when M is regarded as having left pensionable employment, no refund of contributions or other benefit is payable until M leaves pensionable employment.
- (12) For the purposes of paragraph (10)(b), the rate of contributions payable is the rate that would have been payable on the basis of reduced earnings in accordance with paragraph (5) and (6)(a) had the practitioner's or non-GP provider's reduced earnings excluded earnings for a day during which the practitioner or non-GP provider, whilst on maternity leave, returned to work for the purpose of keeping in touch with the workplace.
- (13) If M fails to pay contributions which are required to be paid in respect of a period of absence to which this regulation applies—
- (a) M will be treated as having left pensionable employment; but
 - (b) no refund of contributions or other benefit is payable until M actually leaves pensionable employment.
- (14) Benefits payable on the death of a member whose earnings ceased during a period of absence to which paragraph (2) applies are calculated as if the member had died in pensionable employment the day before the earnings ceased.

Textual Amendments

- F3** Words in [reg. 28\(2\)\(e\)](#) inserted (with effect in accordance with [reg. 1\(4\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), [regs. 1\(2\), 4](#)

Pensionable earnings: more than one employment

29.—(1) This regulation applies if, at any time, a member (M) is in receipt of pensionable earnings in respect of two or more employments each of which is attributable to M belonging to any of groups A to C in the table in regulation 27.

(2) If it appears to the scheme manager that the total pensionable earnings for the employments exceeds the comparable amount, the excess is ignored for the purposes of this Part.

(3) The comparable amount is the amount that would be the pensionable earnings for a single comparable whole-time employment, not held concurrently with any other employment, under which services of the kinds performed in the two or more employments are performed.

(4) Each employing authority of M's must provide the scheme manager with such information relating to M's employment as the scheme manager requires for the purpose of enabling the scheme manager to determine what is a single comparable whole-time employment.

(5) In determining what is a single comparable whole-time employment, the scheme manager must have regard to guidance issued by the scheme actuary for the purpose.

- (6) It is immaterial whether one or more of the employments mentioned in paragraph (1)—
- (a) is with the same employing authority; or
 - (b) is treated as a part-time employment.
- (7) An employment includes a contract to perform services.

Members' contributions: employees

30.—(1) This regulation applies in relation to an active member (M) who belongs to group A, B or C in regulation 27(1).

(2) M must make contributions to this scheme (“members' contributions”)—

- (a) in respect of M's pensionable earnings;
- (b) at M's contribution rate for the scheme year in question.

(3) Where paragraph 2 of Schedule 9 (determination of pensionable earnings for the purposes of setting a contribution rate for members) applies, [^{F4}M's contribution rate—

- (a) for the scheme year 2015/16 is the percentage specified in column 2 of Table 1 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall; ^{F5}...
- (b) for the scheme year 2016/17 is the percentage specified in column 2 of Table 2 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]^{F6};
- (c) for the scheme year 2017/18 is the percentage specified in column 2 of Table 3 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]^{F7};
- (d) for the scheme year 2018/19 is the percentage specified in column 2 of Table 4 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]^{F8};
- (e) for the scheme year 2019/20 is the percentage specified in column 2 of Table 5 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]

[^{F9}Table 1]

<i>Column 1 Pensionable earnings band</i>	<i>Column 2 Contribution percentage rate</i>
Up to £15,828	5.2%
£15,829 to £21,601	5.8%
£21,602 to £27,089	7.3%
£27,090 to £49,967	9.5%
£49,968 to £71,337	12.7%
£71,338 to £111,376	13.7%
£111,377 and above	14.7%

Status: Point in time view as at 01/04/2019.**Changes to legislation:** There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, PART 4. (See end of Document for details)**[^{F10}Table 2**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £16,128	5.2%
£16,129 to £21,817	5.8%
£21,818 to £27,360	7.3%
£27,361 to £50,466	9.5%
£50,467 to £72,050	12.7%
£72,051 to £112,490	13.7%
£112,491 and above	14.7%]

[^{F11}Table 3

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £16,528	5.2%
£16,529 to £22,217	5.8%
£22,218 to £27,634	7.3%
£27,635 to £50,971	9.5%
£50,972 to £72,770	12.7%
£72,771 to £113,625	13.7%
£113,626 and above	14.7%]

[^{F12}Table 4

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £16,928	5.2%
£16,929 to £22,439	5.8%
£22,440 to £27,910	7.3%
£27,911 to £51,481	9.5%
£51,482 to £73,498	12.7%
£73,499 to £114,760	13.7%
£114,761 and above	14.7%]

[^{F13}Table 5

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £17,864	5.2%
£17,865 to £23,112	5.8%
£23,113 to £28,747	7.3%
£28,748 to £53,025	9.5%
£53,026 to £75,703	12.7%
£75,704 to £116,360	13.7%
£116,361 and above	14.7%]

(4) The Scottish Ministers must—

- (a) with the consent of the Treasury; and
- (b) having considered the advice of the scheme actuary,

determine the pensionable earnings bands and contribution percentage rates ^{F14}... in respect of each subsequent scheme year.

(5) M's employing authority must deduct member contributions from M's pensionable earnings and pay them to the scheme manager not later than the 19th day of the month following that in which the earnings were paid to M.

(6) If M's employing authority has failed to deduct contributions pursuant to paragraph (5), the scheme manager may recover the amount of unpaid contributions by deduction from benefit payable to, or in respect of, M if the scheme manager has notified M of an intention to do so.

Textual Amendments

- F4** Words in reg. 30(3) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **4(a)(i)**
- F5** Word in reg. 30(3) omitted (with effect in accordance with reg. 1(5) of the amending S.S.I.) by virtue of [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), regs. 1(2), **5(a)**
- F6** Reg. 30(3)(c) and semi-colon inserted (with effect in accordance with reg. 1(5) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), regs. 1(2), **5(b)**
- F7** Reg. 30(3)(d) and semi-colon inserted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **3(a)**
- F8** Reg. 30(3)(e) and semi-colon inserted (1.4.2019) by [The National Health Service Superannuation and Pension Schemes \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/46\)](#), regs. 1, **13(a)**
- F9** Words in reg. 30(3) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **4(a)(ii)**
- F10** Reg. 30(3) Table 2 inserted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **4(a)(iii)**

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- F11** Reg. 30(3) Table 3 inserted (with effect in accordance with reg. 1(5) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), regs. 1(2), **5(c)**
- F12** Reg. 30(3) Table 4 inserted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **3(b)**
- F13** Reg. 30(3) Table 5 inserted (1.4.2019) by [The National Health Service Superannuation and Pension Schemes \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/46\)](#), regs. 1, **13(b)**
- F14** Words in reg. 30(4) omitted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by virtue of [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **4(b)**

Members' contributions: practitioners and non-GP providers

31.—(1) This regulation applies to an active member (M) who belongs to group D in regulation 27(1).

(2) M must make contributions to this scheme (members' contributions)—

- (a) in respect of M's pensionable earnings;
- (b) at M's contribution rate for the scheme year in question.

[^{F15}(3) M's contribution rate—

- (a) for the scheme year 2015/16 is the percentage specified in column 2 of Table 1 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall; ^{F16}...
- (b) for the scheme year 2016/17 is the percentage specified in column 2 of Table 2 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]]^{F17};
- (c) for the scheme year 2017/18 is the percentage specified in column 2 of Table 3 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]]^{F18};
- (d) for the scheme year 2018/19 is the percentage specified in column 2 of Table 4 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]]^{F19};
- (e) for the scheme year 2019/20 is the percentage specified in column 2 of Table 5 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall]

(4) The Scottish Ministers must—

- (a) with the consent of the Treasury; and
- (b) having considered the advice of the scheme actuary,

determine the pensionable earnings bands and contribution percentage rates ^{F20}... in respect of each subsequent scheme year.

(5) In determining members' contributions payable in accordance with this regulation, a contracting Health Board (or in the case of a dentist or ophthalmic [^{F21}provider], the Health Board with which that person has an arrangement to provide general dental services or general ophthalmic services), employing authority or someone appointed to act on their behalf must take account of pensionable earnings from all practitioner service.

(6) An employing authority that is not a contracting Health Board must, in respect of pensionable earnings it pays to M, take advice from a relevant contracting Health Board (or someone appointed to act on its behalf) in determining the contributions payable in accordance with this regulation.

(7) If M is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in an employing authority that is not an OOH provider, the authority must—

- (a) deduct contributions due under this regulation from any pensionable earnings it pays to M; and
- (b) if it is not also the contracting Health Board, pay the contributions to the contracting Health Board (or someone appointed to act on its behalf) not later than the 7th day of the month following the month in which the earnings were paid.

(8) In any other case, M must pay members' contributions to the contracting Health Board or someone appointed to act on its behalf.

(9) [^{F22}The Tables are]—

[^{F23}Table 1]

<i>Column 1 Pensionable earnings band</i>	<i>Column 2 Contribution percentage rate</i>
Up to £15,828	5.2%
£15,829 to £21,601	5.8%
£21,602 to £27,089	7.3%
£27,090 to £49,967	9.5%
£49,968 to £71,337	12.7%
£71,338 to £111,376	13.7%
£111,377 and above	14.7%

[^{F24}Table 2]

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £16,128	5.2%
£16,129 to £21,817	5.8%
£21,818 to £27,360	7.3%
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£72,051 to £112,490	13.7%
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<i>Column 1</i>	<i>Column 2</i>
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[^{F26}Table 4

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[^{F27}Table 5

<i>Column 1</i>	<i>Column 2</i>
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£53,026 to £75,703	12.7%
£75,704 to £116,360	13.7%
£116,361 and above	14.7%]

(10) Regulations 37 and 38 and Schedule 10 make provision supplementary to this regulation and references [^{F28}in regulation 37 to “the Table” are references to the applicable Table in paragraph (9) of this regulation].

Textual Amendments

- F15** Reg. 31(3) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **5(a)**
- F16** Word in reg. 31(3) omitted (with effect in accordance with reg. 1(5) of the amending S.S.I.) by virtue of [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), regs. 1(2), **6(a)(i)**
- F17** Reg. 31(3)(c) and semi-colon inserted (with effect in accordance with reg. 1(5) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), regs. 1(2), **6(a)(ii)**
- F18** Reg. 31(3)(d) and semi-colon inserted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **4(a)**
- F19** Reg. 31(3)(e) and semi-colon inserted (1.4.2019) by [The National Health Service Superannuation and Pension Schemes \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/46\)](#), regs. 1, **14(a)**
- F20** Words in reg. 31(4) omitted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by virtue of [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **5(b)**
- F21** Word in reg. 31(5) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **5(c)**
- F22** Words in reg. 31(9) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **5(d)(i)**
- F23** Words in reg. 31(9) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **5(d)(ii)**
- F24** Reg. 31(9) Table 2 inserted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **5(d)(iii)**
- F25** Reg. 31(9) Table 3 inserted (with effect in accordance with reg. 1(5) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), regs. 1(2), **6(b)**
- F26** Reg. 31(9) Table 4 inserted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **4(b)**
- F27** Reg. 31(9) Table 5 inserted (1.4.2019) by [The National Health Service Superannuation and Pension Schemes \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/46\)](#), regs. 1, **14(b)**
- F28** Words in reg. 31(10) substituted (with effect in accordance with reg. 1(2) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **5(e)**

Contributions by employing authorities

32.—(1) The employing authority of an active member of this scheme must contribute to the scheme in respect of the pensionable earnings of the member at the employer's standard rate: [^{F29}20.9%].

(2) Paragraph (3) applies if—

- (a) during the same period a person who belongs to any of groups A to C in the table in regulation 27(1) holds more than one employment (whether under a contract of service or for services) with an employing authority; and

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- (b) that person is an active member of this scheme in respect of each employment.
- (3) This regulation and regulations 33 and 34 apply in respect of each employment as if it were the only employment held by the person.
- (4) The Scottish Ministers may direct that for the purposes of this Part, “employing authority” includes one or more of the following—
- (a) a successor, transmittee or assignee of an employing authority's business or functions;
 - (b) the last employing authority of a person to whom these Regulations apply.
- (5) The employing authority's standard rate contribution must be paid to the scheme manager not later than the 19th day of the month following that in which the member is paid the pensionable earnings to which the contribution relates.
- (6) A member's employing authority is determined in accordance with the following table where column 1 describes the nature of the member's engagement in the provision of health services and column 2 identifies the employing authority relating to that engagement.

<i>Column 1 Nature of employment</i>	<i>Column 2 Employing authority</i>
Employment by an NHS organisation	The NHS organisation
Employment by a Section 17C Agreement provider, GMS practice, HBPMS contractor or OOH provider	The Section 17C Agreement provider, GMS practice, HBPMS contractor or OOH provider in question
Employment by a determination employer	The determination employer
Medical practitioner employed by a medical contractor or non-GP provider on a locum basis	The Health Board or someone appointed to act on its behalf
Medical contractor or non-GP provider (including an ^{F30} ophthalmic provider] with a GOS contract)	The Health Board or someone appointed to act on its behalf
General dental practitioner	The Health Board or someone appointed to act on its behalf
Dental contractor	The dental contractor

Textual Amendments

- F29** Word in [reg. 32\(1\)](#) substituted (1.4.2019) by [The National Health Service Superannuation and Pension Schemes \(Scotland\) \(Miscellaneous Amendments\) Regulations 2019 \(S.S.I. 2019/46\)](#), [regs. 1, 15](#)
- F30** Words in [reg. 32\(6\)](#) Table substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), [regs. 1\(1\), 6](#)

Employing authority contributions: interests of efficiency

- 33.—**(1) This regulation applies if—
- (a) a member's (M) employment is terminated by M's employing authority in the interests of the efficient discharge of the employing authority's functions; and
 - (b) M will become entitled to payment of a pension under regulation 80 on the entitlement day for a premature retirement pension.

(2) The employing authority must make a contribution to the scheme manager in respect of the amount the scheme manager determines is required to meet the cost of paying the premature retirement pension under regulation 80.

(3) Paragraph (4) applies if—

- (a) a pension becomes payable to M under regulation 80 in respect of the termination of M's employment with an employing authority (“the first authority”); and
- (b) M elects that at the same time a pension also becomes payable to M in respect of pensionable service with one or more other employing authorities.

(4) The first authority must also make any additional contribution for which the other employing authority or authorities would be liable in accordance with paragraph (2) if the other authority or authorities had terminated M's employment as mentioned in paragraph (1)(a).

(5) An employing authority is not responsible for meeting any costs in respect of the early payment of benefits to the extent that the benefits are attributable to contributions made under Chapter 5 of Part 4 (additional pension).

(6) An employing authority must pay contributions under this regulation by a single payment made within one month of the date on which the pension under regulation 80 becomes payable.

(7) The scheme manager, on the advice of the scheme actuary, must determine—

- (a) the costs mentioned in paragraph (2);
- (b) the amount of the payment mentioned in paragraph (5).

Employing authority contributions: redundancy

34.—(1) This regulation applies if—

- (a) a member's (M) employment is terminated by reason of redundancy; and
- (b) M will become entitled to payment of a pension under regulation 81 on the entitlement day for a premature retirement pension.

(2) M's employing authority must make a single lump sum contribution to the scheme manager of the relevant amount.

(3) The contribution must be paid within one month of the date on which the pension under regulation 81 became payable.

(4) The relevant amount is the amount the employing authority is required to pay to M in consequence of M's redundancy.

Interest and administration charges: late paid contributions

35.—(1) There is a chargeable event if an employing authority fails to pay contributions it is required to pay under regulation 30, 31, 32, 33, 34, 47 or 56 on or before the date specified in the regulation concerned.

(2) Where there is a chargeable event, the scheme manager may determine what amount of contributions are unpaid having regard to—

- (a) the amount of contributions historically paid at a chargeable event by that employing authority;
- (b) any reasons or explanation provided by the employing authority for the change in the amount of contributions (if any) it has paid at such an event;
- (c) any other factors that the scheme manager considers relevant.

(3) Where there is a chargeable event, the employing authority is liable to pay—

Status: Point in time view as at 01/04/2019.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, PART 4. (See end of Document for details)

- (a) standard rate interest on the amount of unpaid contributions constituting that event; and
 - (b) an administration charge in respect of each such event.
- (4) Where the scheme manager becomes aware of a chargeable event, the scheme manager must give the employing authority a written notice specifying—
- (a) the date of the chargeable event;
 - (b) the amount of unpaid contributions determined under paragraph (2);
 - (c) the amount of interest at the standard rate payable in respect of that event;
 - (d) the amount of administration charge payable in respect of it;
 - (e) that payment of the amounts referred to in paragraphs (c) and (d) is to be made before the end of the period of 1 month starting with the date of the notice and that failure to do so incurs further interest and administration charges.
- (5) An amount payable by way of interest or payable by way of an administration charge is to be paid as a single lump sum unless the scheme manager—
- (a) considers the case to be exceptional; and
 - (b) considers it appropriate for all, or part, of the amount to be paid over a period and by a number of instalments determined by the scheme manager.
- (6) Where the scheme manager considers the case to be exceptional, nothing in the preceding paragraphs prevents the scheme manager from waiving all or any part of the amount of interest, or all or any administration charges, payable.
- (7) The standard rate of interest is the Superannuation Contributions Adjusted for Past Experience Discount rate set by the Treasury ^{M2}.
- (8) The administration charge in respect of arrears in respect of the scheme year 2015-2016 and subsequent years is £75.
- (9) In any particular case the Scottish Ministers may direct that, for the purposes of this regulation, “employing authority” includes one or more of a successor, transmittee or assignee of all or part of an employing authority's business or functions.

Marginal Citations

M2 The Treasury power to make directions under section 11 of the 2013 Act is relevant.

Member contributions: records and estimates

- 36.**—(1) An employing authority must, in respect of a person, keep a record of—
- (a) contributions paid under regulation 30, 47, 61 or 63;
 - (b) contributions due under regulation 30, 47, 61 or 63, but unpaid;
 - (c) contributions paid under regulation 32^{F31}, 33 or 34];
 - (d) contributions due under regulation 32^{F32}, 33 or 34], but unpaid;
 - (e) hours or sessions of service if the employment is not whole time employment;
 - (f) pensionable earnings;
 - (g) absences from work referred to in regulation 21;
 - (h) starting and termination of pensionable employment;
 - (i) reasons for termination of pensionable employment.
- (2) The record must be kept in a manner approved by the scheme manager.

(3) Unless the scheme manager waives the requirement, an employing authority must provide a composite statement in respect of the matters referred to in paragraph (1) in respect of all scheme members to the scheme manager before the end of the period of 2 months starting with the end of each scheme year.

(4) Where—

- (a) an employing authority has provided information in accordance with paragraph (3); and
- (b) there is a change to the information,

the authority must, before the end of the period of one month after the change, provide the scheme manager with the revised information.

(5) An employing authority must provide to the scheme manager in respect of each scheme year details of the total contributions paid for all scheme members under regulations 30, 32, 61 and 63 and the details must be provided—

- (a) before the end of the period of 2 months after a request for the information is made;
- (b) in a manner prescribed by the scheme manager.

(6) Where—

- (a) an employing authority has provided the information requested in paragraph (5); and
- (b) there is a revision to the total contributions made,

the authority must, before the end of the period of one month after the revision, provide the scheme manager with the revised total.

(7) An employing authority must, in respect of each scheme year, provide to the scheme manager a statement of estimated total contributions under regulations 30, 32, 47, 61 and 63—

- (a) not later than one month before the start of the scheme year;
- (b) in a manner required by the scheme manager.

Textual Amendments

- F31** Words in [reg. 36\(1\)\(c\)](#) inserted (with effect in accordance with [reg. 1\(3\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), [regs. 1\(2\)](#), [7\(a\)](#)
- F32** Words in [reg. 36\(1\)\(d\)](#) inserted (with effect in accordance with [reg. 1\(3\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), [regs. 1\(2\)](#), [7\(b\)](#)

Members contributions: supplementary: medical practitioners, non-GP providers

37.—(1) This regulation applies to a member (M) who belongs to group D in regulation 27(1) by virtue of being—

- (a) a medical practitioner; or
- (b) a non-GP provider.

(2) Paragraph (3) applies if, in respect of a scheme year, M—

- (a) has certified M's pensionable earnings in accordance with Part 1 of Schedule 10 and forwarded a record of the earnings to the contracting Health Board (or someone appointed to act on its behalf); or
- (b) was not required to certify M's earnings in accordance with Part 1 of Schedule 10 but the contracting Health Board (or someone appointed to act on its behalf) has the figure that represents M's pensionable earnings for that year.

Status: Point in time view as at 01/04/2019.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, PART 4. (See end of Document for details)

(3) M's contributions payable for the scheme year in question are those specified in column 2 of the Table in respect of the amount of pensionable earnings referred to in column 1 of the Table which corresponds to the aggregate of—

- (a) certified or final pensionable earnings from all group D sources uprated according to the formula—

$$\frac{PE}{NDPS} \times 365$$

where—

PE is the certified or final amount of M's pensionable earnings from all group D sources for the year;

NDPS is the number of days of group D service from the date that M's service commenced in the scheme year to the end of the scheme year; and

- b any additional pensionable earnings M is treated as having received during an absence from work in accordance with regulation 28.

(4) If paragraph (3) does not apply to M in respect of a scheme year, M must pay contributions at the rate in column 2 of the Table on the basis of whichever of the following the contracting Health Board (or someone appointed to act on its behalf) considers the most appropriate in the circumstances—

- (a) an amount of M's earnings that has been agreed between M and the contracting Health Board (or someone appointed to act on its behalf);
- (b) an amount of M's earnings that corresponds to M's most recent certified or final pensionable earnings referred to in paragraph (2); or
- (c) an amount of M's earnings that corresponds to the estimate by the Contracting Health Board (or someone appointed to act on its behalf) of M's pensionable earnings from all group D sources for that year.

(5) If paragraph (4) applies to M in respect of a scheme year and paragraph (2)(a) or (b) is subsequently satisfied in respect of that year, M must pay contributions at the rate determined in accordance with paragraph (3).

(6) A contracting Health Board (or someone appointed to act on its behalf) may adjust M's contribution rates for a scheme year determined in accordance with paragraph (4)—

- (a) by agreement between M and the contracting Health Board (or someone appointed to act on its behalf); or
- (b) without such agreement, if the contracting Health Board (or someone appointed to act on its behalf) is satisfied that M's pensionable earnings will exceed the amount used to so determine the contribution rate.

(7) If M concurrently belongs both to group D and to any of groups A to C in regulation 27(1)—

- (a) contributions payable in respect of M's service for the purposes of group D must be determined under this regulation; and
- (b) contributions payable in respect of M's service for the purposes of any of groups A to C must be determined under regulation 30.

(8) In the application of this regulation to a non-GP provider who derives income from more than one group D source, a reference to all group D sources must be construed as a reference to such one of those sources as the non-GP provider specifies for the purposes of this regulation.

(9) If M is a locum practitioner who is not also a principal practitioner—

- (a) M must pay contributions from group D earnings at the rate in column 2 of the table in regulation 31(9) based on income from all sources; and
 - (b) M must pay those contributions to the scheme [^{F33}manager] no later than the 19th day following the month in which the earnings were paid.
- (10) If M is an assistant practitioner, M must pay contributions from group D earnings at the rate in column 2 of the Table in regulation 31(9).
- (11) If M has more than one assistant practitioner post—
- (a) M must provide M's employer with an estimate of income from all employments; and
 - (b) M must pay contributions at the rate in column 2 of the Table in regulation 31(9), taking into account M's income from all employments.

Textual Amendments

F33 Word in [reg. 37\(9\)\(b\)](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), [regs. 1\(1\), 7](#)

Members contributions: supplementary: dental practitioners

38.—(1) This regulation applies to a member (M) who belongs to group D in regulation 27(1) by virtue of being a general dental practitioner.

(2) The Health Board with whom M has an arrangement to provide services (or someone appointed to act on its behalf) will determine the level of M's contributions based on the information it holds of estimated earnings.

(3) The Health Board (or someone appointed to act on its behalf) may adjust M's contribution rates for a scheme year determined in accordance with paragraph (2)—

- (a) by agreement between M and the Health Board (or someone appointed to act on its behalf); or
- (b) without such agreement, if the Health Board (or someone appointed to act on its behalf) is satisfied that M's pensionable earnings will exceed the amount used to determine the contribution rate.

CHAPTER 2

Refund: short service

Eligibility for refund

39.—(1) Contributions made by a member (M) may be repaid to M only if—

- (a) the 1993 Act condition applies; or
- (b) the short service condition applies.

(2) The “1993 Act condition” is that—

- (a) [^{F34}Chapter 2 of Part 4ZA] of the 1993 Act applies to M; and
- (b) the repayment is made in accordance with that Chapter.

(3) The short service condition applies if—

- (a) M has not attained normal pension age;
- (b) M does not qualify for benefits under regulation 71;

Status: Point in time view as at 01/04/2019.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, PART 4. (See end of Document for details)

- (c) M is not a pensioner member;
- (d) M ceases to be an active member;
- (e) the 1993 Act condition does not apply to M; and
- (f) M makes a claim in writing to the scheme manager for the repayment.

Textual Amendments

F34 Words in [reg. 39\(2\)\(a\)](#) substituted (with effect in accordance with [reg. 1\(5\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), [regs. 1\(2\), 8](#)

Amount of refund

- 40.**—(1) The amount of a repayment to a member (M) pursuant to regulation 39 is—
- (a) if the 1993 Act condition applies, the amount which M is entitled to be paid pursuant to ^[F35]Chapter 2 of Part 4ZA] of that Act, less the appropriate deductions;
 - (b) if the short service condition applies, an amount equal to the sum of the contributions paid by M, less the appropriate deductions.
- (2) The appropriate deductions are—
- (a) so much of the contributions equivalent premium paid in respect of M as is permitted pursuant to section 61 of the 1993 Act; and
 - (b) an amount equal to the income tax payable under section 205 of the 2004 Act (short service lump sum charge) as a result of the repayment.
- (3) M is entitled to interest on the amount of the repayment unless M's pensionable service ceases because M's employment is terminated—
- (a) pursuant to M's contract of employment;
 - (b) at M's request; or
 - (c) by reason of misconduct or inefficiency.
- (4) The rate of interest is 2.5% per year calculated on a compound basis with yearly rests.
- (5) Interest is payable in respect of the period starting on 1st April following the day when M started to pay contributions and ending on the day M leaves pensionable service.
- (6) Paragraphs (4) and (5) do not apply if—
- (a) regulation 39(1)(a) applies; and
 - (b) M is entitled to a greater amount of interest under ^[F36]Chapter 2 of Part 4ZA] of the 1993 Act.
- (7) So far as contributions paid by M were paid under another scheme and were included in a transfer payment to this scheme—
- (a) interest for the period before the transfer period was made is calculated in accordance with the other scheme (subject to any enactment applicable to the transfer); and
 - (b) paragraphs (4) and (5) do not apply as respects that period.

Textual Amendments

- F35** Words in [reg. 40\(1\)\(a\)](#) substituted (with effect in accordance with [reg. 1\(5\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), [regs. 1\(2\)](#), [9\(a\)](#)
- F36** Words in [reg. 40\(6\)\(b\)](#) substituted (with effect in accordance with [reg. 1\(5\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), [regs. 1\(2\)](#), [9\(b\)](#)

Effect of refund

41.—(1) If a repayment of contributions is made pursuant to regulation 39, the rights of the member (M) under this scheme are extinguished unless—

- (a) M or M's spouse or civil partner is entitled to a guaranteed minimum pension under the scheme; and
 - (b) no contributions equivalent payment has been paid.
- (2) Paragraph (1) does not apply if—
- (a) M again becomes a member of this scheme; and
 - (b) before the end of the period of 6 months starting on the date M again becomes a member, M repays to the scheme manager the contributions together with any interest paid in respect of them.

CHAPTER 3

Buy-out: actuarial reduction

Eligibility to make a buy-out election

42.—(1) A member (M) who has a prospective normal pension age over 65 may elect to pay contributions to buy out the actuarial reduction (“buy-out election”) in accordance with this Chapter.

- (2) A buy-out election ceases to have effect when the earliest of the following occurs—
- (a) M reaches normal pension age;
 - (b) a retirement pension other than a partial retirement pension becomes payable to M;
 - (c) M revokes the election or is taken to revoke the election.
- (3) A buy-out election may only be made before the end of the period of 3 months after—
- (a) M enters pensionable service under this scheme [^{F37}in accordance with paragraph (3A)]; or
 - (b) the beginning of a subsequent scheme year.

[^{F38}(3A) For the purposes of paragraph (3)(a), M is treated as entering pensionable service on each occasion that an active member’s account is established in respect of that service in accordance with regulation 24(1)(a).]

- (4) When making a buy-out election, M must—
- (a) be in pensionable service; and
 - (b) not have reached normal pension age.

[^{F39}(5) M may make an election under this regulation on one occasion only during each period of pensionable service in respect of which an active member’s account is established in accordance with regulation 24(1)(a).]

Status: Point in time view as at 01/04/2019.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, PART 4. (See end of Document for details)

Textual Amendments

- F37** Words in [reg. 42\(3\)\(a\)](#) inserted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **5(2)**
- F38** [Reg. 42\(3A\)](#) inserted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **5(3)**
- F39** [Reg. 42\(5\)](#) substituted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **5(4)**

Making and varying a buy-out election

43.—(1) A buy-out election made by a member (M) must state the number of years in respect of which the actuarial reduction is to be bought out.

(2) The number of years—

- (a) must not exceed 3 or (if less) the number of years from the date of M's 65th birthday until M's prospective normal pension age; and
- (b) must be a whole number of years unless—
- (i) M's prospective normal pension age is expressed otherwise than as a whole number of years; or
- (ii) the scheme [^{F40}manager] (having considered the advice of the scheme actuary) considers in M's circumstances it is unreasonable to restrict the period to whole years.

(3) A buy-out election must be made by written notice to the scheme manager.

(4) The notice of election must—

- (a) if M is a member of this scheme by virtue of more than one employment, specify the names of each of the employing authorities; and
- (b) be in such form and provide such other information as the scheme manager requires.

(5) The scheme manager may ask M to provide further information.

(6) M may by written notice to the scheme manager vary a buy-out election to increase the period for which the actuarial reduction is bought out at any time before a retirement pension becomes payable to M.

(7) Paragraph (6) is subject to paragraph (2) and regulation 42(3) and (4).

(8) Regulation 45 applies to a notice under paragraph (6) as it applies to an election under regulation 42(1) and, for the purposes of this paragraph, the amount found under regulation 45(2) includes the value of any increase mentioned in paragraph (6).

Textual Amendments

- F40** Word in [reg. 43\(2\)\(b\)\(ii\)](#) substituted (with effect in accordance with [reg. 1\(2\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) Amendment Regulations 2016 \(S.S.I. 2016/97\)](#), regs. 1(1), **8**

Accepting a buy-out election

44.—(1) The scheme manager may accept a buy-out election by giving written notice to the person who made the election (M).

(2) The notice must state—

- (a) the rate of the monthly payments determined under regulation 46; and
 - (b) the date on which M reaches prospective normal pension age.
- (3) A buy-out election takes effect when M receives notice that the scheme manager has accepted the election.
- (4) The buy-out period is the number of scheme years starting with (and including) the scheme year in which the buy-out election takes effect and ending with (and including) the scheme year in which the earliest of the following occurs—
- (a) M revokes or is taken to have revoked the election;
 - (b) M ceases to be a member of the scheme;
 - (c) M reaches normal pension age.
- (5) The buy-out period does not include a scheme year in which payment of buy-out contributions is suspended by virtue of regulation 48.

Overall limit on extra pension

45.—(1) The scheme manager must not accept an election under regulation 42(1) from a member if—

- (a) the member has made an election under regulation 54; and
- (b) paragraph (2) applies.

(2) This paragraph applies if the value of the actuarial reduction bought out exceeds the greater of the first and second amounts in paragraph (3).

(3) In this paragraph—

- (a) the first amount is $B - A$;
- (b) the second amount is $L - A$,

where—

B is the maximum potential value (determined having regard to the advice of the scheme actuary and the limits in regulation 43(2)) at the date of the election under regulation 42 (in terms of annual pension) of the reduction for the period for which the buy-out has effect;

L is the overall limit for the purposes of regulation 60; and

A is the value (in terms of annual pension) of any additional pension purchased or being purchased by the member under this scheme.

(4) A reference to the value of an additional pension is, in the case of a member who has made more than one election under regulation 54, a reference to the aggregate value of all the additional pensions in respect of which the member has made an election.

Determination of contributions payable

46.—(1) The scheme manager must, after consultation with the scheme actuary, determine the rate of the monthly payments to be paid in respect of a buy-out election.

(2) The scheme manager—

- (a) may determine the rate of the monthly payments by reference to the length of the period between the date of the buy-out election and the date when the member will reach prospective normal pension age; and may exercise the functions under this paragraph so as to re-determine the amount of the monthly payments during that period; and
- (b) may exercise the functions under this paragraph so as to re-determine the amount of the monthly payments during the contributions payment period.

Status: Point in time view as at 01/04/2019.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, PART 4. (See end of Document for details)

(3) Unless the scheme manager re-determines the amount, monthly payments following a gap in service not exceeding 5 years are the same as before the gap.

Payment of buy-out contributions

47.—(1) A member (M) must—

- (a) make the first monthly payment within 2 months after the end of the month in which a buy-out election is accepted; and
- (b) continue to make the monthly payments until the end of the period mentioned in regulation 46(2)(a).

(2) If the scheme manager re-determines the amount of the monthly payment during the period mentioned in regulation 46(2)(a), M must pay the re-determined amount from—

- (a) the start of the next scheme year, or
- (b) such later date as the scheme manager specifies.

(3) If the member's employing authority agrees to pay any or part of the contributions, the amount payable by the employing authority must be paid at the time the member would otherwise have been required to pay them.

(4) For the purpose of determining the amount of contributions payable during any period in which M's pensionable earnings are reduced as mentioned in regulation 28, the reduction in pensionable earnings must be disregarded.

(5) In this regulation, “the first monthly payment” includes any monthly payment due in arrears for the period between the start of the scheme year in which the buy-out election is accepted and the date of the first payment.

Suspension of buy-out: hardship

48.—(1) The scheme manager may, at the request of the member (M), agree to the suspension of the payment of contributions if the scheme manager is satisfied that M's circumstances are such that M will suffer hardship if the payments are not suspended.

(2) A period of suspension is permitted only if—

- (a) there has been no previous suspension; or
- (b) if there has been an earlier suspension, contributions have been paid for not less than a full scheme year since the earlier suspension ended.

(3) If the scheme manager agrees to the suspension, paragraph (4) applies unless—

- (a) not later than one year after the request under paragraph (1) is made M applies to resume making contributions; and
- (b) M resumes making the contributions at the start of the following scheme year.

(4) If this paragraph applies—

- (a) M is taken to have revoked the buy-out election; and
- (b) M is not entitled to make any other buy-out election under the scheme.

(5) Paragraph (6) applies if—

- (a) the scheme manager agrees to the suspension of payment of contributions by M; and
- (b) M's employing authority has agreed to pay contributions as mentioned in regulation 47(3).

(6) Payment of contributions by M's employer is suspended for the same period as the payment of contributions by M is suspended.

Revoking a buy-out election

49.—(1) A member (M) may revoke a buy-out election at any time before the end of the period mentioned in regulation 46(2)(a).

(2) The scheme manager may revoke M's buy-out election if M does not pay contributions for a period of 12 months.

(3) If a buy-out election is or is taken to have been revoked, M's monthly payments cease to be payable on the date of revocation.

(4) If, at the revocation date, the buy-out period during which the contributions were paid was less than 12 months—

- (a) the contributions must be repaid to M; and
- (b) the buy-out election ceases to have effect.

(5) If, at the revocation date, the buy-out period during which the contributions were paid is 12 months or more—

- (a) contributions paid during the scheme year in which the election is revoked must be repaid to M; and
- (b) the buy-out period ends at the end of the previous scheme year.

(6) The revocation date is the date the buy-out election is, or is taken to have been, revoked.

CHAPTER 4

Allocation

Election to allocate pension

50.—(1) A member (M) may elect to allocate a part of the annual amount of M's pension for the provision of a pension after M's death for not more than one individual who is—

- (a) M's spouse or civil partner; or
- (b) a dependant of M (within the meaning of paragraph 15(2) or (3) of Schedule 28 to the 2004 Act).

(2) An election under this regulation may be made only—

- (a) at the time M claims the pension under paragraph 4 of Schedule 3; and
- (b) if M is not already entitled to payment of such a pension.

(3) Paragraph (2)(b) does not apply in the case of a pension payable under regulation 83.

(4) A pension provided as a result of the election must be calculated in accordance with tables prepared by the scheme actuary.

Amount of allocation

51.—(1) An election under regulation 50 may not allocate more than one-third of the member's (M) relevant annual pension.

(2) An election may not allocate an amount that would result in—

- (a) the allocated annual pension exceeding M's unallocated relevant annual pension;
- (b) the allocated annual pension exceeding such amount as the scheme manager determines for the purposes of this paragraph—
 - (i) after consultation with the scheme actuary; and
 - (ii) having regard to any restrictions imposed under Part 4 of the 2004 Act; or

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- (c) the value of the allocated annual pension being such that a lump sum could be paid under paragraph 6 of Schedule 3 by way of commutation of a pension of that amount if the person entitled to the pension is not entitled to any other benefits under the scheme.
- (3) The annual pension allocated must be an exact number of pounds.
- (4) A pension provided pursuant to the election must be calculated in accordance with tables prepared by the scheme actuary.

Procedure for election under regulation 50

- 52.**—(1) An election under regulation 50 in respect of a member's (M) pension must be made by notice in writing given to the scheme manager.
- (2) The notice must be in such form and contain such information as the scheme manager requires.
 - (3) Subject to paragraph (6), the election takes effect when it is accepted by the scheme manager.
 - (4) The election may not be withdrawn, amended or revoked after it has taken effect.
 - (5) The election does not take effect if—
 - (a) M or the person in whose favour the election is made (the beneficiary) dies on or before the day on which the scheme manager accepts it; or
 - (b) the scheme manager is not satisfied that at the time the election is made M is in good health.
 - (6) The election is treated as not having taken effect if the beneficiary dies before M is notified in writing that the scheme manager has accepted the election.

Effect of allocation

- 53.**—(1) If an election by a member (M) under regulation 50 has taken effect—
- (a) M's pension is reduced accordingly (even if the beneficiary predeceases M); and
 - (b) if the beneficiary survives M, on M's death the beneficiary becomes entitled to the payment of a pension for life of such amount as is determined in accordance with regulation 51.
- (2) An allocation is disregarded if it would result in a pension being paid to a beneficiary who is neither—
- (a) M's spouse or civil partner on the date when M becomes entitled to the pension or dies; nor
 - (b) at the time of M's death, a dependant of M (within the meaning of paragraph 15(2) or (3) of Schedule 28 to the 2004 Act).
- (3) References in these Regulations to pensions under Part 5 do not include pensions under this regulation, except where the context otherwise requires.
- (4) A pension under this regulation is payable to the beneficiary in addition to a pension payable in respect of M's death under Part 6.

CHAPTER 5

Additional pension

Election to pay contributions for additional pension

- 54.**—(1) This paragraph applies in relation to a member of the scheme (M) who—
- (a) is in pensionable service under the scheme; and
 - (b) has not reached normal pension age.
- (2) M or, with M's consent, M's employing authority may elect to pay contributions for an additional pension in respect of M (“additional pension election”).

- (3) An additional pension election may be made in respect of—
- (a) an additional (self only) pension; or
 - (b) an additional (self only) pension and an additional (survivor's) pension.
- (4) M may make an election under this regulation more than once.
- (5) In this Chapter, the refund period is the period ending one year after the date on which an election under this regulation is accepted.

Annual rate of additional (self only) pension

55. The annual rate of additional (self only) pension specified in an additional pension election must be a whole number multiple of—

- (a) £250; or
- (b) such other amount as is determined by the scheme manager.

Lump sum or periodic payments

- 56.**—(1) An employing authority's additional pension contributions must be made by lump sum.
- (2) A member's additional pension contributions may be paid either by lump sum or by periodic payments.

Making an additional pension election

57.—(1) An additional pension election by a member (M) must be made by written notice to the scheme manager stating whether additional pension contributions are to be paid—

- (a) as a lump sum; or
- (b) by periodic payments.

(2) An additional pension election by M's employing authority must be made by written notice to the scheme manager.

(3) A notice under this regulation must be accompanied by a declaration by M that M is in good health.

(4) An additional pension election must not be made at any time when M is absent from work for any reason.

[^{F41}(5) For the purposes of this Chapter—

- (a) a member is treated as having made an additional pension election on the date on which the employing authority receives the member's notice under paragraph (1); and
- (b) an employing authority is treated as having made an additional pension election on the date on which the scheme manager receives the authority's notice under paragraph (2).]

Textual Amendments

F41 Reg. 57(5) inserted (retrospective to 1.4.2015) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(2), 6

Accepting an additional pension election

58.—(1) The scheme manager may accept an additional pension election by giving written notice to—

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- (a) the member (M); and
 - (b) M's employing authority.
- (2) The scheme manager may refuse to accept an election if there are reasonable grounds to believe—
- (a) that M is not in good health at the time the election is made; or
 - (b) in the case of an election where the contributions are to be made by periodic payments, that M's health is likely to prevent the payment of contributions for the whole of the contributions payment period.
- (3) For the purposes of these Regulations, an additional pension election is accepted when M receives notice from the scheme manager.

Determination of contribution payable

- 59.**—(1) The scheme manager must determine the amount to be paid as a lump sum or as a periodic payment.
- (2) The amount of the lump sum or periodic payment must be—
- (a) not less than the minimum amount; or
 - (b) an amount which is a multiple of the minimum amount.
- (3) In paragraph (2), the minimum amount is the amount that would, in accordance with tables prepared by the scheme actuary for the scheme year in which the contributions are paid, be the amount of contribution required to secure the additional pension specified under regulation 55.
- (4) The tables mentioned in paragraph (3)—
- (a) may specify different amounts for different descriptions of members; and
 - (b) may be amended during a scheme year.
- (5) An amendment under paragraph (4)(b) has effect—
- (a) at the start of the next scheme year; or
 - (b) such later date as the scheme manager specifies.

Overall limit on extra pension

- 60.**—(1) The scheme manager must not accept an election under regulation 54 from a member (M) in so far as the effect of accepting the election would be to provide M with one or more additional pensions which exceeds, or in aggregate exceed, the overall limit.
- (2) The overall limit is—
- (a) £6,500 for a scheme year ending before 1st April 2016;
 - (b) for a scheme year beginning on or after that date—
 - (i) the overall limit of extra pension determined by the Treasury in respect of that scheme year as published before the start of that scheme year; or
 - (ii) if no such determination is made, the amount calculated under paragraph (3).
- (3) The amount is the amount to which the annual rate of a pension of an amount equal to the overall limit of extra pension for the previous scheme year would have been increased under the Pensions (Increase) Act 1971 if—
- (a) that pension were eligible to be so increased; and
 - (b) the beginning date for that pension were the first day of the previous scheme year.

(4) In determining the value of an extra pension for the purposes of paragraph (1), the scheme manager must include the value by reference to an annual pension of any actuarial reduction buy-out election having effect in relation to M.

(5) A valuation for the purposes of paragraph (4) must have regard to the advice of the scheme actuary.

Lump sum contributions: payment of contributions and credit of additional pension

61.—(1) This paragraph applies to a member (M)—

- (a) in respect of whom an additional pension election is accepted; and
- (b) whose notice of election states that contributions are to be paid by lump sum.

(2) M's additional pension account is to be credited with an amount equal to the annual rate of additional (self only) pension stated in the notice of election (“the amount of additional pension”) if the lump sum contribution is paid within one month after the additional pension election is accepted.

(3) If the lump sum contribution is not paid within that time, an election under regulation 54 is taken not to have been made.

Refund of lump sum contribution

62.—(1) This regulation applies if a member (M) has paid a lump sum contribution for additional pension.

[^{F42}(3) If M dies before the end of the refund period—

- (a) the amount of the lump sum paid by M must be repaid to M's executors;
- (b) the amount of lump sum paid by M's employing authority pursuant to regulation 56 must be repaid to the authority; and
- (c) the additional pension account must be closed.

(4) If an ill-health pension becomes payable to M before the end of the refund period—

- (a) the amount of the lump sum paid by M must be repaid to M;
- (b) the amount of lump sum paid by M's employing authority pursuant to regulation 56 must be repaid to the authority; and
- (c) the additional pension account must be closed.]

Textual Amendments

F42 Reg. 62(3)(4) substituted for reg. 62(2) (retrospective to 1.4.2015) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(2), 7

Periodic Contributions

63.—(1) This regulation and regulations 64, 65 and 67 to 70 apply in relation to a member (M)—

- (a) in respect of whom an additional pension election is accepted; and
- (b) whose notice of election states that contributions are to be paid by periodic payments during the contributions payment period.

(2) M's employing authority must—

- (a) deduct the contributions from M's pensionable earnings; and

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- (b) pay them to the scheme manager not later than the 19th day of the month following that in which the earnings were paid to M.
- (3) The contributions payment period must—
 - (a) be a whole number of years;
 - (b) begin with the pay period in respect of which the first contribution is paid;
 - (c) be not less than one year nor more than 20 years; and
 - (d) end before M reaches normal pension age.
- (4) If the scheme manager re-determines the amount of the periodic payment during the contributions payment period, the re-determined amount must be paid from—
 - (a) the beginning of the next scheme year; or
 - (b) such later date as the scheme manager determines.

Retirement pension (other than ill-health pension) becomes payable before the end of the contributions payment period

- 64.**—(1) This regulation applies if any of the following retirement pensions becomes payable to M before the end of the contributions payment period—
- (a) a partial retirement (if M has elected to receive additional pension with it);
 - (b) a premature retirement pension;
 - (c) an early retirement pension.
- (2) If this regulation applies—
- (a) periodic payments for additional pension cease to be payable on the entitlement day for that pension; and
 - (b) the amount of accrued additional pension as at the day M leaves the pensionable service concerned is an amount determined by the scheme manager, having regard to—
 - (i) the period over which the contributions were paid; and
 - (ii) the length of the contribution payment period.

Revoking an additional pension election (periodic payments)

- 65.**—(1) A member (M) may revoke an additional pension election at any time before the end of the contributions payment period.
- (2) A revocation must be by notice in writing to—
- (a) the scheme manager; and
 - (b) M's employing authority.
- (3) A revocation has effect from the date it is received by the scheme manager (“date of revocation”).
- (4) On the date of revocation under paragraph (1)—
- (a) periodic payments for additional pension under the election cease to be payable; and
 - (b) the amount of accrued additional pension as at that date is an amount determined by the scheme manager.
- (5) The scheme manager may revoke the election if there are reasonable grounds for believing—
- (a) that M's health will prevent M from paying contributions for the whole of the contributions payment period;

- (b) that M was aware of the state of M's health at the time of making the declaration under regulation 57(3); and
- (c) that M failed to disclose the state of M's health in the declaration.
- (6) A revocation under paragraph (5) must be given to M by notice in writing.
- (7) If the scheme manager revokes an election under paragraph (5)—
 - (a) periodic payments for additional pension under the election cease to be payable; and
 - (b) payments made by M before the date of revocation must be returned to M or, if M is deceased, M's executors.

Revocation of election by scheme manager (lump sum)

66.—(1) The scheme manager may revoke an additional pension election made by a member (M) where the contribution was paid by lump sum if the scheme manager has reasonable grounds for believing that—

- (a) at the time the declaration under regulation 57(3) was made, M was aware that the state of M's health was such that not less than 12 months after the election it was reasonable to assume that M would become entitled to an ill-health pension or M's survivors would become entitled to a pension under Part 6; and
- (b) M failed to disclose the state of M's health at the time of making the declaration.

(2) If the scheme manager revokes an election under paragraph (1), the scheme manager must repay the lump sum—

- (a) if the lump sum was paid by M, to M, or if M is deceased, to M's executors;
- (b) if the lump sum was paid by M's employing authority, to the employing authority.

Effect of being absent or leaving and rejoining scheme during contributions payment period

67.—(1) This paragraph applies if, during the contributions payment period, a member (M) who has made an election under regulation 54—

- (a) is absent from work because of illness or injury;
- (b) is on maternity leave;
- (c) is on adoption leave;
- (d) is on paternity leave;
- (e) is on parental leave [^{F43}or shared parental leave]; or
- (f) is within regulation 21(4) or (6).

(2) If paragraph (1) applies—

- (a) the contributions payable under regulation 63 continue to be payable unless M ceases paying basic contributions;
- (b) M may resume paying contributions under regulation 63 only if—
 - (i) M ceases to pay basic contributions; but
 - (ii) resumes paying basic contributions before the end of the period of 12 months beginning with the day on which M first ceased to pay basic contributions.

(3) This paragraph applies if—

- (a) a member (M) has made an election under regulation 54;
- (b) M ceases to be an active member during the contributions payment period; and

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- (c) before the end of the period of 12 months beginning with the day on which M ceased to be an active member, M becomes an active member again.
- (4) If paragraph (3) applies, M may continue to make contributions in accordance with the election unless a repayment of contributions has been made to M under regulation 39.
- (5) For the purposes of paragraph (4), it is immaterial whether M has paid any repaid contributions back to the scheme manager.
- (6) In this regulation, “basic contributions” means contributions payable under regulation 30 or 31.

Textual Amendments

F43 Words in [reg. 67\(1\)\(e\)](#) inserted (with effect in accordance with [reg. 1\(4\)](#) of the amending S.S.I.) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) Regulations 2017 \(S.S.I. 2017/28\)](#), [regs. 1\(2\)](#), **10**

Death in service before end of contributions payment period

- 68.**—(1) This regulation applies on the death of a member (D)—
- ^{F44}(a) whose additional pension election is for—
- (i) an additional (self only) pension; or
 - (ii) an additional (self only) pension and an additional (survivor’s) pension;]
- (b) who dies while an active member before the end of the contributions payment period for that election.
- (2) If D dies before the end of the refund period—
- (a) the amount of the contributions paid by D must be repaid to D's executors;
 - ^{F45}(b)
 - (c) the additional pension account must be closed.
- (3) If D dies after the end of the refund period—
- (a) the periodic payments cease to be payable as at the date of D's death; and
 - (b) paragraph (4) applies.
- (4) For the purpose of calculating a survivor's pension—
- (a) if the scheme manager believes that the declaration that accompanied the additional pension election was made in good faith—
 - (i) the periodic payments under the additional pension election are treated as being paid until the end of the contributions payment period for the election;
 - (ii) the amount of accrued additional pension calculated is under paragraph 28 of Schedule 7 as at the date of D's death;
 - (b) if the scheme manager has reasonable grounds to believe that declaration was not made in good faith, paragraph (2)(a) to (c) applies.

Textual Amendments

F44 [Reg. 68\(1\)\(a\)](#) substituted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), [regs. 1\(1\)](#), **8(2)**

F45 Reg. 68(2)(b) omitted (31.1.2018) by virtue of [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **8(3)**

Ill-health pension becomes payable before end of contributions payment period

69.—(1) This regulation applies if an ill-health pension becomes payable to a member (M) before the end of the contributions payment period for an additional pension election.

(2) If an ill health pension becomes payable to M in consequence of a claim made before the end of the refund period—

(a) any periodic payments that have been made under the election must be repaid to M;

^{F46}(b)

(c) the amount of accrued additional pension attributable to the election as at the last day of pensionable service must be disregarded.

^{F47}(4) If an ill-health pension becomes payable to M in consequence of a claim made after the end of the refund period—

(a) the periodic payments under the additional pension election are treated as being paid until the end of the contributions payment period for the election; and

(b) paragraph (4) applies.

(5) For the purpose of calculating the annual rate of ill-health pension—

(a) if, on consideration of the evidence available, the scheme manager believes that the declaration that accompanied the additional pension election was made in good faith, the amount of accrued additional pension is calculated under paragraph 28 of Schedule 7 as at the last day of pensionable service;

(b) if the scheme manager believes that the declaration was not made in good faith, paragraph (2)(a) to (c) applies.]

Textual Amendments

F46 Reg. 69(2)(b) omitted (31.1.2018) by virtue of [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **9(2)**

F47 Reg. 69(4)(5) substituted for reg. 69(3) (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **9(3)**

Effect of part payment of contributions

70.—(1) This regulation applies if—

(a) the full amount of contributions payable by a member (M) under an additional pension election is not paid; and

(b) neither regulation 68(2) nor 69(2) applies.

(2) The amount of accrued additional pension under paragraph 28(3) of Schedule 7 is the appropriate portion of the amount of accrued additional pension if the full amount of contributions had been paid.

(3) In the case of an election under regulation 54(3)(b), the amount of accrued additional pension under Part 6 in respect of M is the appropriate proportion of the amount had the full amount of contributions been paid.

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(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary determines and specifies in guidance given to the scheme manager.

- (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 to be paid under the election for the full contributions payment period; and
 - (b) the requirements of Chapter 1 of Part 4 of the 1993 Act relating to the preservation of benefits under occupational pension schemes.

Status:

Point in time view as at 01/04/2019.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, PART 4.