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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (“the 1995 Regulations”) which provide for the superannuation of persons engaged in the National Health Service in Scotland. Certain provisions have retrospective effect as authorised by section 12 of the Superannuation Act 1972: regulations 3(e), 8, 9 and 15 from 1st September 1997; and the remainder of regulation 3 and regulations 5, 6, 13 and 16 from 1st April 1998.

Regulation 3 amends regulation A2 of the 1995 Regulations to incorporate definitions relating to pilot schemes under the National Health Service (Primary Care) Act 1997.

Regulation 4 amends regulation E2(10) to remove the overriding cap on the amount payable when early retirement on grounds of terminal ill-health is taken and a lump sum is paid under regulation E2(7) in addition to the lump sum under regulation E7.

Regulations 5 and 6 amend regulations E3 and E4 to disapply the provisions for early retirement on redundancy or efficiency grounds or with the employer’s consent in respect of all providers of piloted services.

Regulation 7 amends regulation F2 to make it clear that no lump sum will be payable under that provision where a lump sum has already been paid under regulation E2(7).

Regulation 8 amends regulation L4 to give GP practice staff who were employed by a general practitioner on and immediately before 1st September 1997 and had previously been compulsorily transferred from NHS employment to employment in a GP practice the option of continuing their contracts to buy additional service, if they had such a contract before they were compulsorily transferred.

Regulation 9 amends regulation Q1 so that a member who made an application before 1st September 1997 to buy additional service, but who commences payments on the contract on or after that date, may up to and including 31st August 1998 elect that regulation Q1(6) (which specifies that a person can only purchase additional service where he could complete 9 years before age 60 and also specifies a maximum of additional service which may be bought) shall cease to apply to him, and thereby increase the number of added years which may be purchased. The amendment also provides for regulation Q1(6) to cease to apply to a member who makes an application on or after 1st September 1997 to buy additional service and who commences payments on that contract on or after that date. The requirement of 9 years potential service to age 60 accordingly no longer applies in such circumstances. In both cases the member must have joined the scheme on or after 17th March 1987. For those members to whom regulation Q1(6) continues to apply and who become entitled to normal retirement pension at age 55, instead of 60, regulation Q1(1) and (6) are amended to refer to age 55 instead of 60. The right to buy additional service is modified accordingly.

Regulation 10 substitutes paragraph (1) and inserts new paragraphs (8A) and (8B) in regulation R4 of the 1995 Regulations.

The substituted paragraph (1) provides that regulation R4 not only applies (as at present) to members who are employed by one or more employing authority or hold two or more separate employments under one employing authority, but also applies to members who are in NHS employment at the time of redundancy and who also held another concurrent NHS employment within the 12 months prior to the redundancy date.

Paragraph (8A) provides that a member, who has been made redundant from NHS employment and whose last concurrent employment as a practitioner terminated within 12 months prior to the date

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

of redundancy, shall be entitled to a pension only under regulation E1 or E5 or a preserved pension under regulation E6 in respect of his practitioner employment.

Paragraph (8B) provides an option which is available to a member to whom paragraph (8A) applies in respect of officer service to which paragraph 9(1), (6) or (9) of Schedule 1 applies. In these circumstances, the member may elect that paragraph 9 (under which his officer service would count as practitioner service) should not apply and instead receive a pension in respect of his officer service.

Regulations 11 and 14 update a statutory reference in regulations R7 and S1(5) respectively and regulation 12 makes a minor correction to regulation R8(6)(b).

Regulation 13 inserts a new regulation R13 into the 1995 Regulations to include in the scheme providers and performers of piloted services under the National Health Service (Primary Care) Act 1997.

New regulation R13 provides that—

- (a) registered medical practitioners who are on a health board list immediately before the commencement of the pilot scheme, and assistant practitioners, will continue to be treated as practitioners employed by the relevant Health Board whether they are providing or performing piloted services;
- (b) registered medical practitioners who are not on a health board list, and who are not assistant practitioners, immediately before the commencement of the pilot scheme will be treated as practitioners employed by the relevant Health Board if they are providing piloted services, and as officers employed by the pilot scheme provider if they are performing piloted services;
- (c) the pilot scheme provider is responsible for paying employer contributions for all members who are pilot scheme employees;
- (d) a nurse, or any other NHS employee, or anyone who was previously a pilot scheme employee (other than a doctor), who is providing piloted services will be treated as a whole-time officer employed by the relevant Health Board; and
- (e) members, other than practitioners, who are performing piloted services will be treated as practice staff.

Regulation 15 amends regulation S2 of the 1995 Regulations to add a new paragraph (12). This paragraph enables practice staff who are in receipt of an NHS pension and who cannot rejoin the scheme or who have chosen to opt out of the scheme not to have their pension abated provided that they were employed by a general practitioner on and immediately before 1st September 1997.

Regulation 16 amends paragraphs 3, 6 and 18 of Schedule 1—

- (a) so that there will no longer be an adjustment to a general practitioner's earnings when he employs an assistant practitioner;
- (b) to define pensionable earnings for practitioners who are providing or performing piloted services; and
- (c) to provide that a registered medical practitioner provider or performer of piloted services (whether or not his name appears on a health board list immediately before the commencement of the pilot scheme) will be treated respectively as a practitioner or officer if he is absent from work due to illness or injury.

These Regulations do not impose any costs on business.