

The National Health Service (Scotland) Additional Voluntary Contributions Scheme Regulations 2017

PURPOSE OF REGULATION	DERIVATION (Regulation no. in the 1998 regulations)	DESTINATION (Regulation no. in the 2017 regulations)	REMARKS
Citation commencement and effect	Regulation 1	Regulation 1	
Interpretation contains general definitions and deals with interpretation of expressions used.	Regulation 2	Regulation 2	<p>SSI 2001/465 regulation 4 inserted the following definitions:</p> <p>“the 1993 Act” means the Pension Schemes Act 1993(1);</p> <p>“the 1999 Act” means the Welfare Reform and Pensions Act 1999(2);</p> <p>“the AVC scheme” means the National Health Service (Scotland) Additional Voluntary Contributions Scheme, the rules of which are set out in these Regulations;</p> <p>“appropriate rights” means rights which are described in paragraph 5 of Schedule 5 to the 1999 Act (pension credits: mode of discharge, appropriate rights);</p> <p>“eligible member” has the meaning given by section 101P(1) of the 1993 Act(3);</p> <p>“NHS Superannuation Scheme” means the National Health Service Superannuation Scheme for Scotland, the rules of which are set out in the 1995 Regulations; (amended by</p>

		<p>regulation 2(3) of SSI 2008/225 to include 2008 Regulations)</p> <p>“normal benefit age”, in relation to the scheme, means the age of 60; (substituted by regulation 2(2)(c) of SSI 2008/225)</p> <p>“pension credit” means a credit under section 29(1)(b) of the 1999 Act and includes a credit under corresponding Northern Ireland legislation;</p> <p>“pension credit benefit” has the meaning given by section 101B of the 1993 Act;</p> <p>“pension credit member” means has the meaning given by section 124(1) of the Pensions Act 1995(4);</p> <p>“pension credit rights” has the meaning given by section 101B of the 1993 Act;”.</p> <p>The definition of “dependant” substituted by SSI 2004/62 regulation 3 (a) and again by regulation 2 (2)(c) of SSI 2008/225</p> <p>The definition of “insurance company” inserted by SSI 2004/62 regulation 3(b)</p> <p>The definition of “occupational pension scheme” was inserted by SSI 2004/62 regulation 3©</p> <p>The definition of “participator” was substituted by regulation 3 (d)SSI 2004/62</p> <p>The definition of “pensionable employment” was</p>
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Explanation of Civil partnerships and same sex marriage	Regulation 2A	Regulation 3	<p>Regulation 2A was inserted by regulation 53 of SSI 2015/96</p> <p>Paragraph (5A) amended by regulation 49 of SSI 2017/27</p>
Instruction on making and	Regulation 3	Regulation 4	<p>Paragraph (1) updated by regulation 54(a) of</p>

acceptance of elections			<p>SSI 2015/96 Paragraph (3) Amended by regulation 4 of SSI 2004/62 regulations 19 and 31 of SSI 2006/307 regulation 2(4) of SSI 2008/225 regulation 54(b) of SSI 2015/96 , and Paragraphs (5) and (6) amended by regulation 2 (4) of SSI 2008/225 New paragraph (6A) inserted by regulation 2(4)(d) of SSI 2008/25 Updated by regulation 110 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations Updated by regulation 36 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations New paragraphs (6B) and (6C) inserted by regulation 54© of SSI 2015/96</p>
Payment and amount of voluntary contributions	Regulation 4	Regulation 5	<p>Paragraphs (2) and (4) amended by regulation 5 of SSI 2004/62 Paragraph (3) substituted and paragraph 4(a) omitted by regulation 32 of SSI 2006/307 Paragraph (3) amended by regulation 2(5)(a) of SSI 2008/225 New paragraph (3A) inserted by regulation 2 Updated by regulation 111 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations (5)(b) of SSI 2008/225 Updated by regulation 37 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations. Updated by regulation 55 of SSI 2015/96 to include references to 2015 CARE scheme.</p>

Variation and cancellation of elections	Regulation 5	Regulation 6	Regulation 5(2)(a) amended by regulation 2(6) of SSI 2008/225 Updated by regulation 36 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations
Circumstances in which elections cease to have effect	Regulation 6	Regulation 7	Paragraph (1) was amended by regulation 20 of SSI 2006/307 Paragraph (2) was inserted by regulation 6 of SSI 2004/62 Amended to reflect 2008 references by regulation 2(7) of SSI 2008/225 Updated by regulation 112 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations Substituted by regulation 56 of SSI 2015/96
Investment of additional voluntary contributions	Regulation 7	Regulation 8	
Inward transfers	Regulation 8	Regulation 9	Paragraph (1) amended by regulation 7 of SSI 2004/62 and substituted by regulation 21 of SSI 2006/307
Inward transfers – miss-sold pensions	Regulation 9	Regulation 10	Updated by regulation 113 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations Updated by regulation 114 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations and to increase the age for transfer to age 75
Outward transfers	Regulation 10	Regulation 11	Regulation substituted by regulation 8 of SSI 2004/62 Paragraphs (1) and (3) substituted and paragraph (2) was omitted by regulation 22 of

			<p>SSI 2006/307 Paragraph (4) substituted, new paragraph (4A) inserted and paragraph (8) amended to reflect 2008 section references by regulation (2)(8) of SSI 2008/225</p> <p>Updated by regulation 114 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations and to increase the age for transfer to age 75</p> <p>Updated by regulation 39 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations</p> <p>Paragraphs (4) and (4A) substituted by regulation 57 of SSI 2015/96 and new paragraph (4B) included and references in paragraph 8 to include references to 2015 CARE scheme.</p>
Retirement and dependents' benefits	Regulation 11	Regulation 12	<p>Regulation 9 of SSI 2004/62 amended paragraphs (3) and (4) and substituted paragraph (6)</p> <p>Paragraphs (1) and (5) substituted and paragraph (3) amended by regulation 33 of SSI 2006/307</p> <p>Paragraph (2)(b) substituted and paragraphs (6) and (8) amended by regulation 2(9) of SSI 2008/225 to reflect 2008 section references</p> <p>Updated by regulation 115 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations</p> <p>Updated by regulation 40 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations</p> <p>Regulation 11 substituted by regulation 58 of</p>

			SSI 2015 /96 Amended by regulation 50 of SSI 201/27 to allow fund to be used for paying excess lump sum.
Lump sum on death	Regulation 12	Regulation 13	Paragraph (2) amended by regulation 10 of SSI 2004/62 and substituted by regulation 23 of SSI 2006/307
Benefit limits	Regulation 13	Not applicable	Substituted by regulation 24 of SSI 2006/307 Omitted by regulation 51 of SSI 2017/27
Repayment of investments in certain cases	Regulation 14	Regulation 14	Paragraph (1) amended by regulation 11 of SSI 2004/62 , paragraphs (1) and (2) amended by regulation 25 of SSI 2006/ 307 Paragraph 1(b) substituted by regulation 2(10) of SSI 2008/225 Updated by regulation 116 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations Updated by regulation 41 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations. Updated by regulation 59 of SSI 2015/96 to include references to 2015 CARE scheme.
Payments by the Scottish Ministers	Regulation 15	Regulation 15	Paragraphs (5)(6) and (10) amended by regulation 12 SSI 2001/465, paragraphs (5) to (8) omitted by regulation 25 , paragraph (10) amended by regulation 25 and paragraph (1) amended by regulation 34 of SSI 2006/307 Paragraphs (3)(b)(ii) and (10) substituted and paragraphs (3)(a) (3)(b)(i) and (9) amended by regulation 2(11) of SSI 2008/225 Updated by regulation 117 of SSI 2010/365 to

			change references in 1995 regulations to those in 2011 regulations Updated by regulation 42 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations Paragraphs (1) and (4) substituted, paragraphs (3) ,(9) and (10) updated with references to 2015 scheme, and new paragraphs (3A) and (9A) inserted by regulation 60 of SSI 2015/96 References in paragraph (3) amended by regulation 52 of SSI 2017/27
Information required by Scottish Ministers	Regulation 16	Regulation 16	Paragraph (2) amended by regulation 13 of SSI 2004/62 New paragraphs (3)-(5) inserted by regulation 27 of SSI 2006/307
Payments in respect of deceased persons	Regulation 17	Regulation 17	
Pension sharing on divorce or nullity of marriage or dissolution or nullity of a civil partnership	Regulation 17A	Regulation 18	Inserted by SSI 2001/ 465
Benefits not assignable on bankruptcy	Regulation 18	Regulation 19	
Offset for crime , negligence or fraud.	Regulation 19	Regulation 20	Amended by regulation 2(12) of SSI 2008/225 to include reference to 2008 section Updated by regulation 118 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations Updated by regulation 43 of SSI 2014/154 to change references in the 2008 regulations to those in 2013 regulations

			Amended by regulation 61 of SSI 2015/96 to include reference to 2015 Scheme.
Loss of rights to benefits	Regulation 20	Regulation 21	Substituted by regulation 62 of SSI 2015/96 to include references to 2015 Scheme.
Determination of Questions	Regulation 21	Regulation 22	Regulation 21 substituted by regulation 4 of SSI 2008/92
Tax	Regulation 22	Regulation 23	Inserted by regulation 28 of SSI 2006/307 New paragraph (2) inserted by regulation 2(14) of SSI 2008/225
Benefit limits	Schedule 1	Not applicable	Substituted by regulation 14 of SSI 2004/62 Revoked by regulation 29 of SSI 2006/307
Pension sharing on Divorce or nullity of marriage or dissolution or nullity of civil partnership	Schedule 2	Schedule 1	Inserted by SSI 2001/ 465 Paragraph 4 (1),(5)(a)amended and (7) substituted by regulation 35 of SSI 2006/307 Updated to include references to 2008 section and death benefit nominees by regulation 2(15) of SSI 2008/225 Paragraph 105 of SSI 2010/22 inserts further references to 2008 scheme and reflect the lump sum rule in section 166(1) of the Finance Act 2004 Updated by regulation 114 of SSI 2010/365 to change references in 1995 regulations to those in 2011 regulations Amended by regulation 63 of SSI 2015/96 to include references to 2015 Scheme, reform changes in respect of dependants allowances and flexibilities in regard to funds - paragraph (1) updated and new sub paragraphs (6) and (7) added, paragraph 4 updated, new (5A) to (5C) added and paragraphs (8), (9), (13) and (14) substituted.

Previous Regulations and amending instruments

**The National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998
SI 1998/1451**

Amended by:

Instrument	Main Changes
SSI 2001/ 465	Inserted schedule 2 in respect of their application to pension sharing on divorce
SSI 2004 /62	Amendments to definitions, clarification of absence from work, the number of days for remitting contributions from members reduced from 10 to 7, transfers out could be made to another form of pension arrangement and inserts revised schedule 1 in respect of tax.
SSI 2006/307	Amendments in respect of Finance Act 2004.
SSI 2008/92	Substitutes regulation 21 to make clearer that any questions are determined under an internal resolution dispute process in accordance with section 50 of the 1995 Pensions Act.
SSI 2008/225	Amends regulations to reflect references to new 2008 section of the scheme from 1 April 2008.
SSI 2010/22	Inserts further references to 2008 scheme and to reflect the lump sum rule in section 166(1) of the Finance Act 2004 in Schedule 2 (Pension sharing on divorce or nullity of marriage or dissolution or nullity of civil partnership.)
SSI 2011/364	Updates references to 1995 regulations to 2011 regulations (following consolidation of 1995 section) and increases upper age limit for transfer to age 75.
SSI 2014/154	Updates references to 2008 regulations to 2013 regulations (following consolidation of 2008 section).
SSI 2015/96	Updates references to include new 2015 CARE scheme regulations and includes references to civil partners and nominated partners and to provide greater flexibility when members take their AVCs.
SSI 2017/27	Amended so that AVC pension pot can be used for member's lifetime allowance excess lump sum.