
SCOTTISH STATUTORY INSTRUMENTS

2010 No.

NATIONAL HEALTH SERVICE

The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment (No. 2) Regulations 2010

Made - - - - - 2010

Laid before the Scottish Parliament 2010

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10 and 12 of, and Schedule 3 to, the Superannuation Act 1972(a), and of all other powers enabling them to do so.

In accordance with section 10(1) of that Act, these Regulations are made with the consent of the Treasury(b).

In accordance with section 10(4) of that Act, the Scottish Ministers have consulted with such representatives of persons likely to be affected by these Regulations as appear to them to be appropriate.

PART 1

INTRODUCTORY

Citation, commencement and effect

1.—(1) These regulations may be cited as the National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment (No. 2) Regulations 2010.

(2) The following regulations come into force on [15th November 2010] and have effect from 1st April 2010, except as set out in paragraph (3).

(3) Regulation 5 has effect from 6th April 2010.

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- (a) 1972 c.11; sections 10 and 12 were amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7) sections 4(2), 8(5) and 10; section 10(6) was amended by the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 7 and by the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), article 108. The functions of the Scottish Ministers, in or as regards Scotland, were transferred to Scottish Ministers by virtue of article 2 of and Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).
- (b) See the Superannuation Act 1972, section 10(1). This function was transferred to the Treasury by virtue of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2 and is still exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.

(4) [To narrate coming into effect dates when amalgamate with earlier regulations.]

PART 2

Amendment of the National Health Service Superannuation Scheme (Scotland) Regulations 1995

Interpretation of Part 2

2. The National Health Service Superannuation Scheme (Scotland) Regulations 1995(a) are amended as follows.

Amendment of regulation A2

3.—(1) Regulation A2 (interpretation) is amended as follows.

(2) In paragraph 2(b), the words “this Section of” are deleted.

(3) After paragraph (b), add—

“(c) any reference to this Section of the scheme, except where the context otherwise requires, means these Regulations.”.

Amendment of regulation D1

4.—(1) Regulation D1 (contributions by members) is amended as follows

(2) For paragraph (1A), substitute—

“(1A) A member whose pensionable pay falls into a pay band specified in column 1 of the relevant table must contribute the percentage of the member’s pensionable pay specified in column 2 of that table in respect of that amount.”.

(3) For paragraph (2), substitute—

“(2) The Scottish Ministers shall, with the consent of the Treasury, determine the pay bands and contribution percentage rates specified in the relevant table in respect of each scheme year.”.

(4) In paragraph (2A), for “making a determination” substitute “determining those pay bands or contribution percentage rates”.

(5) After paragraph (2B)(b), add—

“(c) “relevant table” means—

(i) in respect of the 2010-2011 scheme year, table 1 where paragraph (2C) applies and table 2 if paragraph (2Q), (2R) or (2V) applies;

(ii) in respect of the 2011-2012 scheme year, table 2.

Table 1

<i>Column 1</i>	<i>Column 2</i>
<i>Pay band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

(a) S.I. 1995/365 amended by S.I. 1997/1434 and 1916, 1998/1593, 1999/443, 2001/3649 and 2005/2011 and S.S.I. 2001/437 and 465, 2003/55, 270 and 517, 2005/512 and 544, 2006/307 and 561, 2008/92 and 226, 2009/19 and 208 and 2010/22.

Table 2

<i>Column 1</i>	<i>Column 2</i>
<i>Pay band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

(6) In paragraphs (2E) to (2R) and (2V) for “the table in paragraph (1A)” substitute “the relevant table”.

Amendment of regulation D2

5. For paragraphs (1) and (2) of regulation D2 (contributions and other payments by employing authorities), substitute—

“(1) Each employing authority must contribute to the scheme, in respect of the pensionable pay of each member in pensionable employment with the authority, at the rate determined by the Scottish Ministers and specified in paragraph (2) (“the employer’s standard rate”).

(1A) The employer’s standard rate shall include the cost of providing any increases in pensions which are payable by virtue of Part 1 of the Pensions (Increase) Act 1971.

(1B) In determining the employer’s standard rate, the Scottish Ministers must take the advice of the Scheme Actuary and obtain the Treasury’s consent.

(2) The employer’s standard rate is 13.5 per cent”.

Amendment of Part K

6.—(1) Part K (contracting-out) is amended as follows.

(2) After paragraph (3)(c) of regulation K1 (contracting-out conditions to be overriding), add—

“(ca) “guaranteed minimum pension age” means age 65 in the case of a man or age 60 in the case of a woman”.

(3) For “state pension age” substitute “guaranteed minimum pension age”, in—

- (a) paragraphs (2) where it occurs twice and (6A)(a) of regulation K2 (guaranteed minimum pensions),
- (b) regulation K3 (late retirement),
- (c) paragraph (1) of regulation K4 (early leavers) where it occurs three times,
- (d) paragraphs (1), (2) and (3) of regulation K5 (guaranteed minimum pensions transferred to this Section of the scheme).

Amendment of regulation U3

7.—(1) Regulation U3 (accounts and actuarial reports) shall be amended as follows.

(2) In paragraph (3) before “The scheme actuary”, insert “Subject to paragraph (3A),”.

(3) After paragraph (3), add—

“(3A) The actuarial report referred to in paragraph (3) shall be based on actuarial assumptions determined by the Scottish Ministers following the consent of the Treasury.

(3B) Before determining the assumptions referred to in paragraph (3A) the Scottish Ministers may consult—

- (a) such representatives of employees and employing authorities as appear to the Scottish Ministers to be appropriate, and
- (b) the scheme actuary.”.

Amendment of Schedule 1

8.—(1) Paragraph 10 (contributions to this Section of the scheme) of Schedule 1 (medical and dental practitioners) is amended as follows.

(2) After sub-paragraph (1) add—

“(1A) For the purposes of this paragraph, “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2

Table 1 Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2 Scheme Year 2010–2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

(3) For sub-paragraph (2) to (2B), substitute—

“(2) Subject to sub-paragraph (2A), a member whose pensionable earnings fall into a pensionable earnings band specified in column 1 of the relevant table must contribute the percentage of the member’s pensionable earnings specified in column 2 of that table in respect of that amount.

(2A) The Scottish Ministers shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution rates specified in the relevant table in respect of each scheme year.

(2B) Before determining those pensionable earnings bands or contribution rates, the Scottish Ministers must consider—

- (a) the advice of the scheme actuary; and
- (b) in accordance with regulation U4 (cost sharing), advice from such employee and employer representatives as the Scottish Ministers consider appropriate.”.

(4) In sub-paragraphs (2F) and (2G) for “the table in sub-paragraph (2)” substitute “the relevant table”.

(5) After paragraph (17) insert the following paragraph—

“(18) For the purposes of this paragraph—

- (a) “D1 contributions” means contributions payable under regulation D1 by a practitioner or, as the case may be, a non-GP provider under this Section of the scheme;
- (b) “D2(1) contributions” means contributions payable under regulation D2(1) by an employing authority in respect of a practitioner or, as the case may be, a non-GP provider.”.

PART 3

Amendment of the National Health Service Pension Scheme (Scotland) Regulations 2008

Interpretation of Part 3

9. The National Health Service Pension Scheme (Scotland) Regulations 2008(a) are amended as follows.

Amendment of regulation 1.B.1

10.—(1) Regulation 1.B.1 (actuarial reports and accounts) shall be amended as follows.

(2) At the beginning of paragraph (4) insert “Subject to paragraph (5),”.

(3) After paragraph (4), add—

“(5) The actuarial report referred to in paragraph (4) shall be based on actuarial assumptions determined by the Scottish Ministers following the consent of the Treasury.

(6) Before determining the assumptions referred to in paragraph (5), the Scottish Ministers may consult—

- (a) such representatives of employees and employing authorities as appear to the Scottish Ministers to be appropriate, and
- (b) the scheme actuary.”.

Substitution of regulation 2.C.1

11. For regulation 2.C.1 (contributions by members), substitute—

“2.C.1 Contributions by members

(1) Each active member must make contributions to this Section of the Scheme (member contributions) in respect of—

- (a) the member’s pensionable pay in accordance with regulation 2.C.2 (contribution rate for members other than non-GP providers) where the member is not a non-GP provider;
- (b) the member’s pensionable earnings in accordance with regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers) where the member is a non-GP provider.

(2) Member contributions must be made—

- (a) until the member completes 45 years’ pensionable service, or
- (b) where the notice required by regulation 2.A.2(3) (meaning of “pensionable service”) has been properly received, until the member ceases officer service.

(3) In the case of a member who is not a non-GP Provider, the member’s employing authority must deduct member contributions from the member’s pensionable pay and pay them to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid to the member.

(4) In the case of a member who is a non-GP Provider, the contracting Health Board or someone appointed to act on their behalf must pay to the Scottish Ministers contributions under this regulation paid to it by the non-GP provider or paid to it by another employing authority not later than the 19th day of the month following the month in which the earnings were paid to the non-GP Provider.

(a) S.S.I. 2008/224 as amended by S.S.I. 2009/19 and 208 and 2010/22.

(5) Paragraph (6) applies where a member has failed to pay member contributions or an employing authority has failed to deduct such contributions in accordance with this regulation.

(6) The Scottish Ministers may recover any sum that remains due in respect of contributions referred to in paragraph (5) by deduction from any payment by way of benefits to, or in respect of, the member entitled to them if—

- (a) the member agrees to such a deduction; and
- (b) the deduction is to the member’s advantage.

(7) Paragraph (6) is without prejudice to any other method of recovery the Scottish Ministers may have.

(8) A member who is absent from service in circumstances within regulation 2.A.4(1) to (3) (pensionable service: breaks in service) may make contributions to this Section of the Scheme in respect of the member’s pensionable pay or, as the case may be, pensionable earnings in accordance with that regulation and whichever of regulations 2.C.2 or 2.C.4 applies to that member.

(9) If, apart from this paragraph, the pay or, as the case may be, earnings for a scheme year in respect of a member’s service would not be a whole number of pounds, those earnings must be rounded down to the nearest whole pound.”.

Substitution of regulation 2.C.2

12. For regulation 2.C.2 (members’ contribution rate), substitute—

“2.C.2 Contribution rate for members other than non-GP providers

(1) Contributions under regulation 2.C.1(1)(a) (contributions by members) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

(3) The Scottish Ministers shall, with the consent of the Treasury, determine the pensionable pay bands and percentage contribution rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable pay bands or percentage contribution rates, the Scottish Ministers must consider—

- (a) the advice of the scheme actuary, and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Scottish Ministers consider appropriate.

(5) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2010-2011 scheme year, table 1 where paragraph (2) of regulation 2.C.3 (determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers) applies and table 2 if paragraph (16), (17) or (21) of that regulation applies;
- (b) in respect of the 2011-2012 scheme year, table 2.

Table 1

<i>Column 1</i> <i>Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2

<i>Column 1</i> <i>Pay band</i>	<i>Column 2</i> <i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Amendment of regulation 2.C.3

13.—(1) Regulation 2.C.3 (employees) is amended as follows.

(2) For the heading, substitute “**2.C.3 Determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP Providers**”.

(3) In paragraphs (4) to (17) and (21), for “the table in regulation 2.C.2(2)” substitute “the relevant table in regulation 2.C.2(5)”.

Substitution of regulation 2.C.4

14. For regulation 2.C.4 (Non-GP Providers), substitute—

“2.C.4 Contribution rate and determination of pensionable earnings for Non-GP providers

(1) Member contributions payable by a non-GP Provider under regulation 2.C.1(1)(b) must be paid at the member’s contribution rate for the scheme year in question.

(2) A member’s contribution rate is the percentage specified in column 2 of the relevant table in paragraph (15) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member’s pensionable earnings falls.

(3) The Scottish Ministers shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable earnings bands or contribution rates, the Scottish Ministers must consider—

- (a) the advice of the scheme actuary; and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Scottish Ministers consider appropriate.

(5) Paragraph (6) applies where, in respect of a scheme year, a non-GP provider—

- (a) has certified their pensionable earnings in accordance with regulation 2.J.13 and forwarded a record of those earnings to the contracting Health Board or someone appointed to act on their behalf, or
- (b) was not required to certify their earnings in accordance with that regulation but the contracting Health Board or someone appointed to act on their behalf has the figure that represents the non-GP provider’s pensionable earnings for that scheme year.

(6) In the circumstances referred to in paragraph (5), contributions payable for the scheme year in question shall be those specified in column 2 of the relevant table in paragraph (15) in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to the certified or final pensionable earnings from all non-GP provider sources and any additional pensionable earnings the non-GP provider is treated as having received during a break in service in accordance with regulation 2.A.9.

(7) Subject to paragraph (8), if paragraph (5) does not apply to a non-GP provider in respect of a scheme year, that non-GP provider shall pay contributions at the rate in column

2 of the relevant table in paragraph (15), on the basis of whichever of the following the contracting Health Board or someone appointed to act on their behalf considers the most appropriate in the circumstances—

- (a) an amount of the non-GP provider’s earnings that has been agreed between the contracting Health Board or someone appointed to act on their behalf on the one hand and the non-GP provider on the other hand;
- (b) corresponds to that non-GP provider’s most recent certified or final pensionable earnings referred to in paragraph (5); or
- (c) an amount of such earnings that corresponds to the estimate by the contracting Health Board or someone appointed to act on their behalf of the non-GP provider’s pensionable earnings from all non-GP provider sources for that year.

(8) If paragraph (7) applies to a non-GP provider in respect of a scheme year and paragraph (5)(a) or (b) is subsequently satisfied in respect of that scheme year, that non-GP provider shall pay contributions at the rate determined in accordance with paragraph (6).

(9) The contracting Health Board or someone appointed to act on their behalf may adjust a non-GP provider’s contribution rate for any scheme year determined in accordance with paragraph (7)—

- (a) by agreement between the contracting Health Board or someone appointed to act on their behalf on the one hand and the non-GP provider on the other hand, or
- (b) without such agreement, if the contracting Health Board or someone appointed to act on their behalf is satisfied that pensionable earnings will exceed the amount used to determine the contribution rate in accordance with that paragraph.

(10) If a member is in non-GP provider service and concurrently in practitioner service in respect of which the member is liable to pay contributions in accordance with regulation 3.C.1, contributions payable in respect of the member’s non-GP provider service shall be determined under this regulation and contributions payable in respect of the member’s practitioner service shall be determined under regulation 3.C.2.

(11) In determining member contributions payable in accordance with this regulation, the contracting Health Board or someone appointed to act on their behalf must take account of pensionable earnings from all non-GP provider sources, including any pensionable earnings as a non-GP provider determined by another contracting Health Board.

(12) An employing authority that is not the contracting Health Board or someone appointed to act on their behalf shall, in respect of any pensionable earnings the Health Board or person appointed pays to a non-GP provider, take advice from any other relevant contracting Health Board or person appointed in determining the contributions payable in accordance with this regulation.

(13) Where paragraph (14) does not apply, a non-GP provider shall pay member contributions to the contracting Health Board or someone appointed to act on their behalf.

(14) If a non-GP provider 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, that authority must—

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

(15) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2

Table 1 – Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2 - Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earning band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Substitution of regulation 2.C.5

15. For regulation 2.C.5 (contributions by employing authorities: general), substitute—

“2.C.5 Contributions by employing authorities: general

(1) The employing authority of a member who is an active member of this Section of the scheme under this Part must contribute to the scheme, in respect of the pensionable pay, or as the case may be, pensionable earnings of that member, at the rate determined by the Scottish Ministers and specified in paragraph (4) (“the employer’s standard rate”).

(2) In specifying the employer’s standard rate, the Scottish Ministers must—

- (a) obtain the consent of the Treasury, and
- (b) take account of the advice of the scheme actuary and the cost of providing for any increase in pensions under the Scheme as a result of orders made under the provisions of the Pensions (Increase) Act 1971 and section 59 of the Social Security Pensions Act 1975.

(3) If for any period a person holds more than one employment (whether under a contract of service or for services) with an employing authority in respect of which the person is an active member of the Scheme, this regulation and regulation 2.C.6 apply in respect of each of those employments as if it were the only employment held.

(4) The employer’s standard rate is 13.5%.

(5) In any particular case the Scottish Ministers may direct that, for the purposes of this Chapter, “employing authority” includes one or more of—

- (a) a successor, transmittee or assignee of an employing authority’s business or functions; or
- (b) the last employing authority of a person to whom these regulations apply.

(6) Subject to paragraph (7), if a non-GP provider is—

- (a) an employing authority which is a GMS practice, a section 17C agreement provider or an HBPMS contractor, or
- (b) a shareholder or partner in such an employing authority,

that employing authority shall pay employer’s standard rate contributions to the contracting Health Board or someone appointed to act on their behalf not later than the 7th day of the month following the month in which the earnings were paid.

(7) If a non-GP provider is a shareholder or partner in more than one employing authority referred to in paragraph (6), each employing authority must pay employer’s standard rate

contributions on any pensionable earnings it pays to the non-GP provider or, as the case may be, on the non-GP provider's share of the partnership profits, to the contracting Health Board or someone appointed to act on their behalf not later than the 7th day of the month following the month in which the earnings were paid.

(8) If paragraph (14) of regulation 2.C.4 applies (but paragraph (6) of this regulation does not) and the employing authority referred to in regulation 2.C.4(14)—

- (a) is not the contracting Health Board, that authority must pay employer's standard rate contributions under this regulation to the contracting Health Board or someone appointed to act on their behalf not later than the 7th day of the month following the month in which the earnings were paid;
- (b) is the contracting Health Board, that Health Board or someone appointed to act on their behalf must pay employer's standard rate contributions under this regulation to the Scottish Ministers in respect of any pensionable earnings it pays to the non-GP provider.

(9) Not later than the 19th day of the month following the month in which pensionable pay or, as the case may be, pensionable earnings are paid to a member, the employer's standard rate contributions under this regulation must be paid to Scottish Ministers—

- (a) in the case of a member other than a non-GP provider, by that member's employing authority,
- (b) in the case of a non-GP provider, by the contracting Health Board or someone appointed to act on their behalf.”.

Amendment of regulation 3.C.1

16. In paragraph (1) of regulation 3.C.1 (contributions by members), after “scheme” insert “(“member contributions”)”.

Amendment of regulation 3.C.2

17.—(1) Regulation 3.C.2 (members' contribution rate) is amended as follows.

(2) For paragraphs (1) to (4), substitute—

“(1) Contributions under regulation 3.C.1(1) must be paid at the member's contribution rate for the scheme year in question.

(2) A member's contribution rate is the percentage specified in column 2 of the relevant table in paragraph (14) in respect of the corresponding pensionable earnings band specified in column 1 of that table into which the member's pensionable earnings fall.

(3) The Scottish Ministers shall, with the consent of the Treasury, determine the pensionable earnings bands and contribution rates specified in the relevant table in respect of each scheme year.

(4) Before determining those pensionable earnings bands or contribution rates, the Scottish Ministers must consider—

- (a) the advice of the scheme actuary, and
- (b) in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Scottish Ministers consider appropriate.”.

(3) In paragraphs (5) and (6), for “the table in paragraph (2)” substitute “the relevant table in paragraph (14) “.

(4) After paragraph (13), add—

“(14) For the purposes of this regulation “the relevant table” means—

- (a) in respect of the 2009-2010 scheme year, table 1;
- (b) in respect of the 2010-2011 and any later scheme year, table 2

Table 1 Scheme Year 2009-2010

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £20,709	5%
£20,710 to £68,392	6.5%
£68,393 to £107,846	7.5%
£107,847 to any higher amount	8.5%

Table 2 Scheme Year 2010-2011

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £21,175	5%
£21,176 to £69,931	6.5%
£69,932 to £110,273	7.5%
£110,274 to any higher amount	8.5%

Amendment of regulation 3.C.3

18.—(1) Regulation 3.C.3 (contributions by employing authorities: general) is amended as follows.

(2) For paragraph (1), substitute—

“(1) Each employing authority must contribute to the scheme, in respect of the pensionable earnings of each person who is an active member of the scheme in an employment with the authority, at the rate determined by the Scottish Ministers and specified in paragraph (5) (“the employer’s standard rate”).”.

PART 4**Miscellaneous****Option to persons detrimentally affected by these Regulations**

19.—(1) This regulation applies in relation to any benefit which is being paid or may become payable under the regulations amended by these Regulations to or in respect of a person who, having served in an employment or office, service in which qualified the person to participate in the benefits provided under the regulations amended by these Regulations, ceased to serve therein before these Regulations came into force.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than that person would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Scottish Ministers within 6 months of the coming into force of these Regulations or such longer period as the Scottish Ministers may allow.

(4) An election pursuant to paragraph (2) shall have effect in relation to the benefit referred to in paragraph (1) only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph (1) (or, if there has been more than one such cessation, the last of them before the coming into force of these Regulations) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if that person had never recommenced service at any time after that cessation (or, as the case may be, the last such cessation).

St Andrew's House,
Edinburgh

A member of the Scottish Executive

We consent

Two of the Lord's Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.S.I. 1995/365) (“the 1995 Regulations”) and the National Health Service Pension Scheme (Scotland) Regulations 2008 (S.S.I. 2008/224) (“the 2008 Regulations”).

Regulation 1 provides for citation, commencement and effect, including that certain provisions of this instrument are to take effect from various dates before the date of commencement. Section 12(1) of the Superannuation Act 1972 (c.11) provides authority for the regulations specified to take effect as from a date earlier than the making of these Regulations.

The remainder of the Regulations is divided into three Parts, with Parts 2 and 3 amending the 1995 Regulations and the 2008 Regulations and Part 4 providing that certain persons detrimentally affected by these Regulations may elect for the provisions not to apply to them.

Part 4 provides that deferred members, or members in receipt of a relevant benefit, who are detrimentally affected by these Regulations may elect for the provisions not to apply to them by giving notice within six months of the coming into force of these Regulations (regulation 19).