
SCOTTISH STATUTORY INSTRUMENTS

2015 No.

NATIONAL HEALTH SERVICE

**The National Health Service Superannuation Scheme (Scotland)
(Miscellaneous Amendments) Regulations 2015**

<i>Made</i>	- - - -	2015
<i>Laid before the Scottish Parliament</i>		2015
<i>Coming into force</i>		2015

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.

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 the Scottish Ministers to be appropriate.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service Superannuation Scheme (Scotland) (Miscellaneous Amendments) Regulations 2015.

(2) These Regulations come into force on 1st April 2015.

(a) 1972 c. 11. Section 10(1) was amended by section 4(2) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) (“the 1990 Act”). Section 12(2) was amended by section 10(1) of the 1990 Act. As to Treasury consent, see section 10(1) of the Superannuation Act 1972 and article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

PART 2

Amendment of the National Health Service Superannuation Scheme (Scotland) Regulations 2011

General

2. The National Health Service Superannuation Scheme (Scotland) Regulations 2011 are amended in accordance with regulations 3 to 21.

Amendment of regulation A2

3. In regulation A2 (interpretation), at the appropriate place in the alphabetical order insert—

““the 2015 Scheme” means the scheme set out in the National Health Service Pension Scheme (Scotland) Regulations 2015;

“additional contribution option” means an option in the terms and conditions of a member’s employment that entitles the member to make an additional contribution towards the cost of paying a pension under regulation E3A if the lump sum payment otherwise payable to the member in accordance with those terms and conditions is insufficient to meet the cost of that pension in full;

“civil partner” and “civil partnership” are to be construed in accordance with regulation A4;

“marriage” and “married” do not include a reference to marriage of a same sex couple unless otherwise provided;

“widow” and “widower” do not include a reference to marriage of a same sex couple;

“registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983(a);”.

Insertion of new regulation A4

4. After regulation A3, insert—

“Civil partnerships and marriage of same sex couples

A4.—(1) In these Regulations, a reference to—

(a) civil partnership is to be read as including a reference to marriage of a same sex couple and a reference to civil partners and a person who is in a civil partnership is to be construed accordingly;

(b) a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, a reference to a person whose civil partnership has ended, or a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) In this regulation, “civil partnership” and “civil partners” have the meanings given by section 1 of the Civil Partnership Act 2004.

(5) Where—

(a) 1983 c.54.

- (a) a deceased member of this Scheme was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
 - (b) at the time of the member's death, the member was married to a woman and that marriage subsisted before the time when the certificate was issued,
- the member's widow is to be treated for the purposes of Part G and Part K of these Regulations as if the certificate had not been issued.”.

Amendment of regulation B1

5. After paragraph (3) of regulation B1 (membership of this Section of the scheme), insert—

“(3A) A person—

(a) who—

- (i) was in pensionable employment on 31 March 2012 but ceased to be so after that date, or
- (ii) ceased NHS employment before 1 April 2012,

and is not the subject of a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967,

- (b) who would, if paragraph (a) did not apply, fall within regulation B3(4) to (19), and
- (c) to whom the Treasury's guidance “Fair Deal for staff pensions: staff transfer from central government” applies,

may, if the Scottish Ministers consider it appropriate and make a direction under 7 of the Superannuation (Miscellaneous Provisions) Act 1967, be a member of this Section of the scheme.”.

Amendment of regulation B2

6. In regulation B2 (restrictions on membership)—

- (a) omit sub-paragraphs (h)(v) and (1)(iv) of paragraph (1); and
- (b) after sub-paragraph (c) of paragraph (2), insert—

“(d) for the purposes of sub-paragraphs (i) and (1)(iii)(aa), any break in pensionable employment where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.”.

Amendment of regulation B3

7. After paragraph (3) of regulation B3 (restriction on further participation in this Section of the scheme), insert—

“(4) A person who on 1st April 2012 has not attained the age of 41 years and 7 months may not contribute to or accrue further pensionable service under this Section of the Scheme in respect of service in NHS employment on, or after, 1st April 2015.

(5) A person who on 1st April 2012 has attained the age of 50 may not contribute to or accrue further pensionable service under this Section of the scheme unless that person either—

- (a) is in pensionable employment on the 31st March 2015, or
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(6) A person who on 1st April 2012 has attained the age of 45 but not the age of 46 years and 7 months may not contribute to or accrue further pensionable service under this Section of the scheme unless either paragraph (7) or (8) applies to that person and that person—

- (a) is in pensionable employment on 31st March 2015, or

- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(7) This paragraph applies to a person who was, on 1st April 2012, in pensionable employment as a special class officer either—

- (a) under regulation R2, or
- (b) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(8) This paragraph applies to a person who was, on 31st March 2015, in pensionable employment as a special class officer either—

- (a) under regulation R2, or
- (b) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(9) A person who, on 1st April 2012, has attained the age of 46 years and 7 months but has not attained the age of 50, may not contribute to or accrue further pensionable service under this Section of the scheme unless one of paragraphs (10), (11) or (12) applies to that person and that person—

- (a) is in pensionable employment on 31st March 2015, or
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(10) This paragraph applies to a person whose eligibility cessation date calculated in accordance with paragraph (16) has not been reached.

(11) This paragraph applies to a person if, on 1st April 2012, that person is in pensionable employment as a special class officer either—

- (a) under regulation R2, or
- (b) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(12) This paragraph applies to a person if on the day before that person's eligibility cessation date calculated in accordance with paragraph (10), that person is in pensionable employment as a special class officer either—

- (a) under regulation R2, or
- (b) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation.

(13) A person who, on 1st April 2012 has attained the age of 41 years and 7 months but has not attained the age of 45, may not contribute to or accrue further pensionable service under this Section of the scheme unless either paragraph (14) or (15) applies to that person and that person—

- (a) is in pensionable employment on 31st March 2015, or
- (b) returns to pensionable employment on or after 1st April 2015 in circumstances where the provisions of regulation B2 do not apply.

(14) This paragraph applies to a person if that person was, on 1st April 2012, in pensionable employment as a special class officer—

- (a) either under—

- (i) regulation R2, or
- (ii) regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation, and

(b) that person's eligibility cessation date calculated in accordance with paragraph (17) has not been reached.

(15) This paragraph applies to a person if that person was, on 31st March 2015, in pensionable employment as a special class officer—

(a) either under—

- (i) regulation R2, or
- (ii) under regulation R3 and would, if that employment were to continue until that person attained the age of 60 years, be able to count 20 years or more pensionable service as a mental health officer for the purposes of paragraphs (5) and (6) of that regulation, and

(b) that person's eligibility cessation date calculated in accordance with paragraph (17) has not been reached.

(16) For the purposes of paragraphs (10) and (11), the “eligibility cessation date” in relation to a person is to be determined according to the formula—

$$A - (2 \times M)$$

where—

A is 1st April 2022

M is the number of months (rounded up to the nearest whole month) by which the person's age on 1st April 2012 is less than 50.

(17) For the purposes of paragraphs (14) and (15), the “eligibility cessation date” in relation to a person is to be determined according to the formula—

$$A - (2 \times N)$$

where—

A is 1st April 2022

N is the number of months (rounded up to the nearest whole month) by which the person's age on 1st April 2012 is less than 45.

(18) Paragraph (19) applies to a person who in the opinion of the Scottish Ministers—

- (a) was previously an active member of a health service scheme corresponding to this Section of the scheme;
- (b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section, and
- (c) pursuant to those provisions, the member would have been eligible to re-join that corresponding scheme if the member had returned to NHS employment for the purposes of that scheme on the day the member commenced NHS employment within the meaning of these Regulations.

(19) The Scottish Ministers may permit a person referred to in paragraph (18) to join this Section of the Scheme and, for the purposes of paragraphs (5) to (17), the member's previous pensionable employment under the corresponding health service scheme referred to in paragraph (18) will be treated as is it were previous pensionable employment under this Section of the scheme”.

Amendment of regulation C1

8. In paragraph (1)(a) of regulation C1 (meaning of “pensionable pay” and “final year’s pensionable pay”) after “bonuses” insert “ pay awards and pay increases that are expressed by the Scottish Ministers to be non-consolidated”.

Amendment of regulation D1

9. In regulation D1 (contributions by members), for paragraph (2) substitute—

“(1A) A member’s contribution rate for the scheme years 2015-2016 is the percentage specified in column 2 of the following table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

Table: Scheme Year 2015-2016

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay Band</i>	<i>Contribution Percentage Rate</i>

Amendment of regulation D2

10. In regulation D2 (contributions by employing authorities), in paragraph (4), for 13.5% substitute “?”.

Amendment of regulation E7

11. In regulation E7 (early retirement pension (redundancy etc new starters and transition)—

- (a) in paragraph (4), after “E1” insert “: this is subject to paragraph (4A)”;
- (b) after paragraph (4), insert—

“(4A) A member who satisfies the conditions in paragraph (2) is not entitled to a pension under this this regulation if the Scottish Ministers, after consultation with the scheme Actuary, decide that the amount of the pension would be less than the amount of the guaranteed minimum pension to which the member is entitled.”.

Amendment of regulation G1

12. For paragraphs (8) and (9) of regulation G1 (widows pension), substitute—

“(8) If the Scottish Ministers are satisfied that the widow will otherwise suffer severe financial hardship, the Scottish Ministers may pay a pension to a widow who—

- (a) has remarried,
- (b) has formed a civil partnership,
- (c) is living together as husband and wife with a man to whom the widow is not married,
- (d) is living together as if in a civil partnership with a woman who is not the widow’s civil partner.

(9) If the Scottish Ministers are satisfied that the widow will otherwise suffer hardship, the Scottish Ministers may pay a pension to a widow who has—

- (a) remarried and that later marriage has come to an end,
- (b) formed a civil partnership which has come to an end.”.

Amendment of Regulation G9

13. In paragraph (4)(a) of regulation G9 (increased widower's pension), omit sub-paragraph

Amendment of regulation G13

14. In paragraph (6)(a) of regulation G13 (increased surviving civil partner's pension), omit sub-paragraph

Amendment of regulation G16

15. In paragraph (3) of regulation G16 (purchase of surviving partner's pension in respect of service before 6th April 1988), for sub-paragraph (a) substitute—

“(a) must be made either—

- (i) during the period beginning on 28 June 2008 and ending on 27 September 2009; or
- (ii) during the period beginning on ? 2014 and ending on ? 2015;”.

Amendment of regulation G17

16. In regulation G17 (increased surviving partner's pension)—

- (a) in paragraph (1), for “If a member elects on or before 30th June 2009”, substitute “If a member makes a valid election pursuant to regulation G16(3)(a)”; and
- (b) in paragraph (5), for “no later than 30th June 2009”, substitute “during either of the periods specified in regulation G16(3)(a)”.

Amendment of regulation M7

17. In paragraph (3)(c) of regulation M7 (member's right to transfer a preserved pension to the 2008 Section)(a), after “Section” insert “ on or before 31st March 2015 and”.

New regulation M7A

18. After regulation M7, insert—

“Member's right to transfer a preserved pension to the 2015 Scheme

M7A.—(1) A member who meets both condition A and one of either condition B or condition C, may require the Scottish Ministers to use the cash equivalent of the member's rights under this Section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is entitled to a deferred benefit under regulation E12,
- (b) has not been a member of the 2008 Section, and
- (c) became an active member of the 2015 Scheme before attaining the age of 60.

(3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable employment in respect of which that person is entitled to the pension referred to in paragraph (2)(a), and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(c).

(4) Condition C is that the member—

(a) The relevant amending instrument S.I. 2009/2446 (reg.10).

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4) any break in pensionable employment where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(6) The Scottish Ministers shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations at the guarantee date ("a statement of entitlement").

(7) In this regulation "the guarantee date" means any date that falls within the required period and is—

- (a) chosen by the Scottish Ministers,
- (b) specified in the statement of entitlement, and
- (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(9) In paragraph (7), "the required period" means—

- (a) the period of three months beginning with the date that the Scottish Ministers receive notification from the member's employing authority that the member has joined the 2015 Scheme; or
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Scottish Ministers, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971.

(11) The Scottish Ministers shall—

- (a) take advice from the scheme Actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996(a).

(12) Except in the case of a transfer payment accepted under regulation N5, a member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation N1(5), plus the amount of the member's contributions to this Section of the scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Scottish Ministers for the cash equivalent of the member's rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and shall be—

- (a) made in writing on the form provided for this purpose by the Scottish Ministers;
- (b) made before the end of the period of three months beginning with the guarantee date;

(a) S.I. 1996/1847.

- (c) irrevocable.
- (15) On the making of such an application—
 - (a) a member becomes entitled to be credited with an increase to the member's pensionable earnings in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this Section of the scheme calculated in accordance with regulation 145 of the 2015 Scheme, and
 - (b) the member's rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings in accordance with regulation 145 of the 2015 Scheme.
- (16) A member's right to require the Scottish Ministers to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.”.

Amendment of regulation R7

19. After paragraph (5) of regulation R7 (former members of health service schemes), insert—

“(6) A member who leaves employment in respect of which the member qualified for benefit under a health service scheme and who joins the 2015 Scheme may, by notice in writing, require the Scottish Ministers to credit the member with a relevant period of pensionable service (together with the rights attaching to that service) under this Section of the scheme.

This is subject to paragraphs (8) and (9).

- (7) That relevant period of pensionable service is calculated as if—
 - (a) the employment to which the health service scheme applied were NHS employment; and
 - (b) the member's contributions to that health service scheme were contributions to this Section of the scheme.
- (8) The member may only exercise the right referred to in paragraph (6) if—
 - (a) a transfer payment is made from the health service scheme to this Section of the scheme, and
 - (b) on the day the member becomes an active member of the 2015 Scheme, paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which that transfer value payment is made.
- (9) A notice referred to in paragraph (6) must be addressed to the Scottish Ministers and given within 1 year after joining the 2015 Scheme.”.

New regulation U5

20. At the end of Part U (administrative matters), insert—

“Benefit information statements

U5.—(1) The Scottish Ministers must provide a benefit information statement to each member in accordance with—

- (a) section 14 (information about benefits) of the 2013 Act; and
- (b) any Treasury directions given from time to time pursuant to that section.

(2) Paragraph (1) does not provide a right for a member to request a benefit information statement.

(3) The Scottish Ministers are only required to provide a member with one benefit statement per scheme year.

(4) A benefit information statement provided pursuant to sub-paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013^(a) for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.”.

Amendment of Schedule 1

21. In Schedule 1 (medical and dental practitioners), for sub-paragraph (2) of paragraph 14 (contributions to this Section of the scheme) substitute—

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

- (a) in respect of the 2014-2015 scheme year, table 1;
- (b) in respect of the 2015-2016 scheme year, table 2.

Table 1

Scheme Year 2014-2015

<i>Column 1</i> <i>Pensionable Earnings Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
Up to £15,828	5%
£15,829 to £21,601	5.6%
£21,602 to £27,089	7.1%
£27,090 to £49,967	9.3%
£49,968 to £71,337	12.5%
£71,338 to £111,376	13.5%
£111,377 to any higher amount	14.5%

Table 2: Scheme Years 2015-2016

<i>Column 1</i> <i>Pensionable Pay Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
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”

(a) S.I. 2013/2734.

PART 3

Amendment of the National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013

General

22. The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013 are amended in accordance with regulations 23 to 50.

Substitution of regulation 1.B.1

23. For regulation 1.B.1, substitute—

“Actuarial reports and accounts

1.B.1.—(1) The following paragraphs apply to the National Health Service Pension Scheme as set out in these Regulations and the National Health Service Superannuation Scheme (Scotland) Regulations 2011.

(2) The Scottish Ministers shall keep accounts of all income and expenditure of the scheme in a form approved by the Treasury.

(3) The accounts shall be open to examination by the Comptroller and Auditor General.

(4) The Scheme actuary must prepare an actuarial report of the scheme at the 31st March 2012.

(5) The Scheme actuary must send a copy of the actuarial report of the scheme to the Scottish Ministers and the Treasury.

(6) Where the Scottish Ministers indicates to the Scheme actuary that the actuarial report referred to in paragraph (4) is also to be used for the purposes of establishing a scheme under section 1 of the Public Service Pensions Act 2013 (“the 2015 scheme”), the Scheme actuary must prepare the report taking account of any Treasury directions given from time to time pursuant to sections 11(2) and 12(3) of that Act (including any specific requirements in those directions relating to a preliminary valuation undertaken for the purposes of setting the employer cost cap for the proposed new scheme).”.

Amendment of regulation 1.B.2

24. In paragraph (4A) of regulation 1.B.3 (provision of information relevant for tax purposes)(a), for “Schedule 6” substitute “Schedule 1”.

Amendment of regulation 2.A.1

25. In paragraph (1) of regulation 2.A.1 (interpretation: general), at the appropriate place in alphabetical order insert—

““the 2015 Scheme” means the scheme set out in the National Health Service Pension Scheme (Scotland) Regulations 2015;

“civil partner” and “civil partnership” are to be construed in accordance with regulation 2.A.1A;

“marriage” and “married” do not include a reference to marriage of a same sex couple unless otherwise provided;

“widow” and “widower” do not include a reference to marriage of a same sex couple;

(a) Paragraph (3A) was inserted by regulation 9 of S.I. 2012/610: the last relevant amending instrument is S.I. 2014/570 (reg.19).

“registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983;”

Insertion of regulation 2.A.1A

26. After regulation 2.A.1 (interpretation: general), insert—

“Civil partnerships and marriage of same sex couples

2.A.1A.—(1) In this Part, a reference to—

- (a) civil partnership is to be read as including a reference to marriage of a same sex couple and a reference to civil partners and a person who is in a civil partnership is to be construed accordingly;
- (b) a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, a reference to a person whose civil partnership has ended, or a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) In this regulation, “civil partnership” and “civil partners” have the meanings given by section 1 of the Civil Partnership Act 2004(d).”.

Amendment of regulation 2.A.9

27. After sub-paragraph (a) of paragraph (3) of regulation 2.A.9 (meaning of “pensionable pay”), insert—

“(aa) pay awards and pay increases that are expressed by the Scottish Ministers to be non-consolidated,”.

Amendment of regulation 2.B.1

28. In regulation 2.B.1 (eligibility: general)—

- (a) in paragraph (1), after “Scheme” insert “on or after 1st April 2015”; and
- (b) for paragraphs (3) to (6), substitute—

“(3) Condition B is that the person—

- (a) enters NHS employment on or after 1st April 2008 and has service (“relevant service”) as an active member of this Section of the Scheme—
 - (i) on or before 1st April 2012, or
 - (ii) after 1st April 2012, but only where that service is pursuant to the provisions of Chapter 2.K;
- (b) has not had a break in service for any one period of five years or more ending in the period starting on 2nd April 2012 and finishing on 1st April 2015; and
- (c) meets all of the “other Section conditions” (see paragraph (5)).

(4) Condition C is that the person has not reached the age of 75 and was born on, or before, 31st August 1960.

(5) The “other section conditions” are that—

- (a) the person has not received a repayment of contributions under regulation 2.C.18 in respect of their relevant service;

- (b) the person's rights under this Section of the Scheme in respect of their relevant service have not been extinguished under regulation 2.F.7;
- (c) the person is not entitled to a repayment of contributions under regulation 2.C.18 by virtue of paragraph (2)(a) to (c) of that regulation.

(6) A person—

- (a) who—
 - (i) was in pensionable employment on 31 March 2012 but ceased to be so after that date, or
 - (ii) ceased NHS employment before 1 April 2012,
 and is not the subject of a direction made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967,
- (b) who would, if paragraph (a) did not apply, fall within regulation 2.B.3(1B) to (1G), and
- (c) to whom the Treasury's guidance "Fair Deal for staff pensions: staff transfer from central government" applies,

may, if the Scottish Ministers consider it appropriate and make a direction under 7 of the Superannuation (Miscellaneous Provisions) Act 1967, be a member of this Section of the scheme.”.

Amendment of regulation 2.B.3

29. In regulation 2.B.3 (restrictions on eligibility: general)—

(a) after paragraph (1), insert—

“(1A) A person who was born on, or after, 1st September 1960 is not eligible to be an active member of this Section of the Scheme in respect of service in NHS employment on, or after, 1st April 2015.

(1B) A person is not eligible to be an active member of this Section of the Scheme if that person has had a break in service ending on or after 2nd April 2012, and any of the following apply—

- (a) that break in service is for any one period of five years or more;
- (b) that person receives a repayment of contributions under regulation 2.C.18 in respect of their service before that break (see regulation 2.B.1(3)(a));
- (c) that person becomes entitled to a repayment of contributions under regulation 2.C.18 by virtue of paragraph (2)(a) to (c) of that regulation in respect of their service before that break; or
- (d) that person's rights under this Section of the Scheme in respect of their service before that break have been extinguished under regulation 2.F.7 because a transfer value payment is made in respect of them.

(1C) A person who on 1st April 2012 has attained the age of 55 may not contribute to or accrue further pensionable service under this Section of the Scheme unless that person either—

- (a) is, on 1st April 2015, an active member of this Section of the Scheme in accordance with regulation 2.B.1, or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1D) Paragraph (1E) applies to a person—

- (a) who, on 1st April 2012, has attained the age of 51 years and 7 months but has not attained the age of 55, and
- (b) whose eligibility cessation date has not reached (see paragraph (1F)).

(1E) A person referred to in paragraph (1D) may not contribute to or accrue further pensionable service under this Section of the Scheme unless that person either—

- (a) is, on 1st April 2015, an active member of this Section of the Scheme in accordance with regulation 2.B.1, or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1F) For the purposes of paragraph (1D), a person's eligibility cessation date is to be determined according to the formula—

$$A - (2 \times T)$$

where—

A is 1st April 2022

T is the number of months (rounded up to the nearest whole month) by which the person's age on 1st April 2012 is less than 55.

(1G) For the purposes of paragraphs (1C)(b) and (1E)(b), any break in service where the member was in pensionable service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(1H) Paragraph (1I) applies to a person who in the opinion of the Scottish Ministers—

- (a) was previously an active member of a corresponding scheme;
- (b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section, and
- (c) pursuant to those provisions, the member would have been eligible to re-join that corresponding scheme if the member had returned to NHS employment for the purposes of that scheme on the day the member commenced NHS employment within the meaning of these Regulations.

(1I) The Scottish Ministers may permit a person referred to in paragraph (1H) to join this Section of the Scheme and, for the purposes of paragraphs (1C) to (1G), the member's previous pensionable employment under the corresponding scheme referred to in paragraph (1H) will be treated as if it were previous pensionable employment under this section of the Scheme.

(1J) Paragraph (1K) applies to a person who, in the opinion of the Scottish Ministers—

- (a) was previously an active member in respect of service in an existing scheme (within the meaning of Schedule 5 to the 2013 Act),
- (b) is not receiving a pension in respect of that service on the relevant day,
- (c) the regulations of that existing scheme include provisions that pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section,
- (d) pursuant to those provisions, the person would have been eligible to be an active member of the existing scheme if the member had returned to employment for the purposes of that scheme on the relevant day, and
- (e) the member would, if the member's previous service in the existing scheme had been previous service under this Section of the Scheme, have been eligible for active membership of this Section of the Scheme on the relevant day pursuant to paragraphs (1A) to (1G).

(1K) The Scottish Ministers may permit a person referred to in paragraph (1J) to join this Section of the Scheme and, for the purposes of paragraphs (1C) to (1G), the member's previous service as an active member under the existing scheme referred to in paragraph (1J) will be treated as if it were previous service as an active member of this Section of the Scheme.

(1L) For the purposes of paragraphs (1J) and (1K) “the relevant day” is the day the member commences NHS employment for the purposes of these Regulations.

(1M) A person referred to in paragraph (1C), (1E), (1I) or (1K) may elect, using a form provided by the Scottish Ministers, not to make contributions or accrue further service under this Section of the Scheme in accordance with whichever of those paragraphs apply, but instead (where eligible) to become an active member of the 2015 Scheme.

(1N) An election—

- (a) is irrevocable,
- (b) must be given to the Scottish Ministers before the date specified by the Scottish Ministers in the election form,
- (c) is to be treated as having been given on the date the election form is received by the Scottish Ministers.

(1O) The date referred to in (1N)(b) must be a date that is at least three months later than the date on which the Scottish Ministers provided the member with an election form.

(1P) An election shall be effective from the first day of the member’s pensionable employment in the 2008 Section falling on, or after, 1st April 2015, and from that date—

- (a) that member is to be treated as if that member had been an active member of the 2015 Scheme; and
- (b) contributions made in respect of the member in the 2008 Section shall be treated as if they had been contributions made in respect of that member in the 2015 Scheme

(1Q) . The Scottish Ministers may allow a member to exercise an election after the date specified under paragraph (1N)(b) where the Scottish Ministers consider that the member has not had a reasonable opportunity to consider whether to exercise an election before that date.”.

(2) In sub-paragraph (b) of paragraph (2), after “person” insert “or that person became an active member of this Section of the Scheme before becoming a pensioner member of the 1995 Section”.

Amendment of regulation 2.C.2

30. In regulation 2.C.2 (contribution rate for members other than non-GP providers)—

(a) for paragraph (2), substitute—

“(2) A member’s contribution rate for each of the scheme years 2015-2016 inclusive is the percentage specified in column 2 of the following table in respect of the corresponding pensionable pay band specified in column 1 of that table into which the member’s pensionable pay falls.

Table : Scheme Year 2015-2016

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable Pay Band</i>	<i>Contribution Percentage Rate</i>

(b) omit paragraph (3).

Amendment of regulation 2.C.3

31. In paragraphs (16), (17) and (21) of regulation 2.C.3 (determination of pensionable pay for the purposes of setting a contribution rate for members other than non-GP providers), for “paragraph (3)” substitute “paragraph (2)”.

Amendment of regulation 2.C.4

32. For paragraph (20) of regulation 2.C.4 (contribution rate and determination of pensionable earnings for non-GP providers), substitute—

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

- (a) in respect of the 2014-2015 scheme year, table 1;
- (b) in respect of the 2015-2016 scheme years, table 2.

Table 1
Scheme Year 2014-2015

<i>Column 1</i> <i>Pensionable Earnings Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
Up to £15,828	5%
£15,829 to £21,601	5.6%
£21,602 to £27,089	7.1%
£27,090 to £49,967	9.3%
£49,968 to £71,337	12.5%
£71,338 to £111,376	13.5%
£111,377 to any higher amount	14.5%

Table 2
Scheme Year 2015-2016

<i>Column 1</i> <i>Pensionable Earnings Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
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Amendment of regulation 2.C.5

33. In paragraph (4) of regulation 2.C.5 (contributions by employing authorities: general), for “13.5” substitute “?”.

Amendment of regulation 2.E.5

34. In paragraph (2) of regulation 2.E.5 (amount of pensions under regulation 2.E.1: deferred members), omit “whose” to “last day of pensionable service” (inclusive).

Amendment of regulation 2.F.9

35. For sub-paragraph (c) of paragraph (1) of regulation 2.F.9 (procedure for applications under regulation 2.F.8), substitute—

“(c) may only be made—

- (i) during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of this Section of the Scheme and before the applicant reaches the age of 65, or
- (ii) where the applicant is not eligible to be an active member of this Section of the Scheme and the application is made in respect of a transfer from a corresponding 2008 Scheme, during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of the 2015 Scheme if on that day paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment will be made.”.

Amendment of regulation 2.F.10

36. In paragraph (6) of regulation 2.F.10 (acceptance of transfer value payments), omit “or the member’s spouse’s”.

Substitution of regulation 2.F.13

37. For regulation 2.F.13 (public sector transfer arrangements), substitute—

“Public sector transfer arrangements

2.F.13.—(1) This Chapter applies to a transfer where—

- (a) the member is an active member of the 2015 Scheme,
- (b) the member makes an application under regulation 2.F.8 for a transfer value payment in respect of some or all of the rights that have accrued to or in respect of the member under—
 - (i) an existing scheme listed in Schedule 5 to the 2013 Act,
 - (ii) an existing public body scheme listed in Schedule 10 to that Act,
 - (iii) another occupational pension scheme that participates in the Public Sector Transfer Club,
- (c) the application under regulation 2.F.8 is made within one year beginning with the day the member became eligible to be an active member of the 2015 Scheme and before the member reaches the member’s normal pension age in the 2015 Scheme,
- (d) the transfer value payment is made and accepted under the public sector transfer arrangements, and
- (e) on the day the transfer is completed, paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment is made.

(2) This Chapter also applies in the case of any other transfer to which the public sector transfer arrangements apply (not being a transfer referred to in paragraph (1)) as it applies in other cases, except to the extent that—

- (a) any provision in this Chapter provides otherwise, or
- (b) the arrangements themselves make different provision.”.

New regulation 2.F.18

38.After regulation 2.F.17 (transfers across from the 1995 Section), insert—

“Right to transfer a deferred pension to the 2015 Scheme

2.F.18.—(1) An active member who meets both condition A and one of either condition B or condition C, may require the Scottish Ministers to use the cash equivalent of the

member's rights under this Section of the Scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is a deferred member of this Section of the Scheme, and
- (b) became an active member of the 2015 Scheme before attaining the age of 65.

(3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable service in respect of which that person is a deferred member of this Section of the Scheme and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(b).

(4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4), any break in active membership of this Section of the Scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(6) The Scottish Ministers shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations at the guarantee date ("a statement of entitlement").

(7) In this regulation, "the guarantee date" means any date that falls within the required period and is—

- (a) chosen by the Scottish Ministers,
- (b) specified in the statement of entitlement, and
- (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(9) In paragraph (7), "the required period" means—

- (a) the period of three months beginning with the date that the Scottish Ministers receive notification from the member's employing authority that the member has joined the 2015 Scheme; or
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Scottish Ministers, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971.

(11) The Scottish Ministers must—

- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996.

(12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 2.F.10 (which deals with the crediting of additional service upon transfer), plus the amount of the member's contributions to this Section of the Scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Scottish Ministers for the cash equivalent of the member's rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and shall be—

- (a) made in writing on the form provided for this purpose by the Scottish Ministers;
- (b) made before the end of the period of three months beginning with the guarantee date;
- (c) irrevocable.

(15) On the making of such an application—

- (a) a member becomes entitled to be credited with an increase to the member's pensionable earnings in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this Section of the Scheme calculated in accordance with regulation 145 of the 2015 Scheme, and
- (b) the member's rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings in accordance with regulation 145 of the 2015 Scheme.

(16) A member's right to require the Scottish Ministers to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.”.

New regulation 2.J.15

39. After regulation 2.J.14 (employing authority and certain member record keeping and contribution estimates), insert—

“Benefit information statements

2.J.15.—(1) The Scottish Ministers must provide a benefit information statement to each member in accordance with—

- (a) section 14 (information about benefits) of the 2013 Act; and
- (b) any Treasury directions given from time to time pursuant to that section.

(2) Paragraph (1) does not provide a right for a member to request a benefit information statement.

(3) The Scottish Ministers are only required to provide a member with one benefit statement per scheme year.

(4) A benefit information statement provided pursuant to sub-paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(a) for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.”.

Amendment of regulation 3.A.1

40. In paragraph (1) of regulation 3.A.1 (interpretation of Part 3: general), at the appropriate place in alphabetical order insert—

““the 2015 Scheme” means the scheme set out in the National Health Service Pension Scheme Regulations 2015;

“civil partner” and “civil partnership” are to be construed in accordance with regulation 3.A.1A;

“marriage” and “married” do not include a reference to marriage of a same sex couple unless otherwise provided;

“widow” and “widower” do not include a reference to marriage of a same sex couple;

“registered medical practitioner” means a fully registered medical practitioner within the meaning given in section 55 of the Medical Act 1983;”.

Insertion of regulation 3.A.1A

41. After regulation 3.A.1 (interpretation of Part 3: general), insert—

“Civil partnerships and marriage of same sex couples

3.A.1A.—(1) In this Part, a reference to—

- (a) civil partnership is to be read as including a reference to marriage of a same sex couple and a reference to civil partners and a person who is in a civil partnership is to be construed accordingly;
- (b) a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, a reference to a person whose civil partnership has ended, or a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2), it does not matter how a reference is expressed.

(4) In this regulation, “civil partnership” and “civil partners” have the meanings given by section 1 of the Civil Partnership Act 2004(c).”.

Amendment of regulation 3.B.1

42. In regulation 3.B.1 (eligibility: general)—

- (a) in paragraph (1), after “Scheme” insert “on or after 1st April 2015”; and
- (b) for paragraphs (3) to (6), substitute—

“(3) Condition B is that the person—

- (a) enters practitioner service on or after 1st April 2008 and has service (“relevant service”) as an active member of this Section of the Scheme—
 - (i) on or before 1st April 2012, or
 - (ii) after 1st April 2012, but only where that service is pursuant to the provisions of Chapter 3.K;
- (b) has not had a break in service for any one period of five years or more ending in the period starting on 2nd April 2012 and finishing on 1st April 2015; and
- (c) meets all of the “other Section conditions” (see paragraph (5)).

(4) Condition C is that the person has not reached the age of 75 and was born on, or before, 31st August 1960.

(5) The “other section conditions” are that—

- (a) the person has not received a repayment of contributions under regulation 3.C.16 in respect of their relevant service;
- (b) the person’s rights under this Section of the Scheme in respect of their relevant service have not been extinguished under regulation 3.F.7;
- (c) the person is not entitled to a repayment of contributions under regulation 3.C.16 by virtue of paragraph (2)(a) to (c) of that regulation.”.

Amendment of regulation 3.B.3

43. In regulation 3.B.3 (restrictions on eligibility: general)—

(a) after paragraph (1), insert—

“(1A) A person who was born on, or after, 1st September 1960 is not eligible to be an active member of this Section of the Scheme in respect of practitioner service on, or after, 1st April 2015.

(1B) A person is not eligible to be an active member of this Section of the Scheme if that person has had a break in service ending on or after 2nd April 2012, and any of the following apply—

- (a) that break in service is for any one period of five years or more;
- (b) that person receives a repayment of contributions under regulation 3.C.16 in respect of their service before that break (see regulation 3.B.1(3)(a));
- (c) that person becomes entitled to a repayment of contributions under regulation 3.C.16 by virtue of paragraph (2)(a) to (c) of that regulation in respect of their service before that break; or
- (d) that person’s rights under this Section of the Scheme in respect of their service before that break have been extinguished under regulation 3.F.7 because a transfer value payment is made in respect of them.

(1C) A person who on 1st April 2012 has attained the age of 55 may not contribute or accrue further pensionable service under this Section of the Scheme unless that person either—

- (a) is, on 1st April 2015, an active member of this Section of the Scheme in accordance with regulation 3.B.1, or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1D) Paragraph (1E) applies to a person—

- (a) who, on 1st April 2012, has attained the age of 51 years and 7 months but has not attained the age of 55, and
- (b) whose eligibility cessation date has not reached (see paragraph (1F)).

(1E) A person referred to in paragraph (1D) may not contribute or accrue further pensionable service under this Section of the Scheme unless that person either—

- (a) is, on 1st April 2015, an active member of this Section of the Scheme in accordance with regulation 3.B.1, or
- (b) returns to NHS employment on or after 2nd April 2015 in circumstances where paragraph (1B)(a) does not apply.

(1F) For the purposes of paragraph (1D), a person’s eligibility cessation date is to be determined according to the formula—

$$A - (2 \times T)$$

where—

A is 1st April 2022

T is the number of months (rounded up to the nearest whole month) by which the person’s age on 1st April 2012 is less than 55.

(1G) For the purposes of paragraphs (1C)(b) and (1E)(b), any break in service where the member was in pensionable service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(1H) Paragraph (1I) applies to a person who in the opinion of the Scottish Ministers—

- (a) was previously an active member of a corresponding scheme;

- (b) the regulations governing that corresponding scheme include provisions pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section, and
- (c) pursuant to those provisions, the member would have been eligible to re-join that corresponding scheme if the member had returned to NHS employment for the purposes of that scheme on the day the member commenced NHS employment within the meaning of these Regulations.

(1I) The Scottish Ministers may permit a person referred to in paragraph (1H) to join this Section of the scheme and, for the purposes of paragraphs (1C) to (1G), the member's previous pensionable employment under the corresponding scheme referred to in paragraph (1H) will be treated as if it were previous pensionable employment under this section of the Scheme.

(1J) Paragraph (1K) applies to a person who, in the opinion of the Scottish Ministers—

- (a) was previously an active member in respect of service in an existing scheme (within the meaning of Schedule 5 to the 2013 Act),
- (b) is not receiving a pension in respect of that service on the relevant day,
- (c) the regulations of that existing scheme include provisions that pursuant to subsection (5) of section 18 of the 2013 Act that provide for exceptions to subsection (1) of that section,
- (d) pursuant to those provisions, the person would have been eligible to be an active member of the existing scheme if the member had returned to employment for the purposes of that scheme on the relevant day, and
- (e) the member would, if the member's previous service in the existing scheme had been previous service under this section of the scheme, have been eligible for active membership of this section of the scheme on the relevant day pursuant to paragraphs (1A) to (1G).

(1K) The Scottish Ministers may permit a person referred to in paragraph (1J) to join this section of the scheme and, for the purposes of paragraphs (1C) to (1G), the member's previous service as an active member under the existing scheme referred to in paragraph (1J) will be treated as if it were previous service as an active member of this section of the scheme.

(1L) For the purposes of paragraphs (1J) and (1K) "the relevant day" is the day the member commences NHS employment for the purposes of these Regulations.

(1M) A person referred to in paragraph (1C), (1E), (1I) or (1K) may elect, using a form provided by the Scottish Ministers, not to make contributions or accrue further service under this Section of Scheme in accordance with whichever of those paragraphs apply, but instead (where eligible) to become an active member of the 2015 Scheme.

(1N) An election—

- (a) is irrevocable,
- (b) must be given to the Scottish Ministers before the date specified by the Scottish Ministers in the election form,
- (c) is to be treated as having been given on the date the election form is received by the Scottish Ministers.

(1O) The date referred to in (1N)(b) must be a date that is at least three months later than the date on which the Scottish Ministers provided the member with an election form.

(1P) An election shall be effective from the first day of the member's pensionable employment in the 2008 Section falling on, or after, 1st April 2015, and from that date—

- (a) that member is to be treated as if that member had been an active member of the 2015 Scheme; and
- (b) contributions made in respect of the member in the 2008 Section shall be treated as if they had been contributions made in respect of that member in the 2015 Scheme.

(1Q) The Scottish Ministers may allow a member to exercise an election after the date specified under paragraph (1N)(b) where the Scottish Ministers consider that the member has not had a reasonable opportunity to consider whether to exercise an election before that date.”; and

- (b) in sub-paragraph (b) of paragraph (2), after “person” insert “ or that person became an active member of this section of the scheme before becoming a pensioner member of the 1995 Section”.

Amendment of regulation 3.C.2

44. For paragraph (13) of regulation 3.C.2, substitute —

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

- (a) in respect of the 2014-2015 scheme year, table 1;
- (b) in respect of the 2015-2016 scheme years table 2.

Table 1
Scheme Year 2014-2015

<i>Column 1</i> <i>Pensionable Earnings Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
Up to £15,828	5%
£15,829 to £21,601	5.6%
£21,602 to £27,089	7.1%
£27,090 to £49,967	9.3%
£49,968 to £71,337	12.5%
£71,338 to £111,376	13.5%
£111,377 to any higher amount	14.5%

Table 2
Scheme Year 2015-2016

<i>Column 1</i> <i>Pensionable Earnings Band</i>	<i>Column 2</i> <i>Contribution Percentage Rate</i>
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Amendment of regulation 3.C.3

45. In paragraph (5) of regulation 3.C.3 (contributions by employing authorities: general), for “13.5%” substitute “?”.

Amendment of regulation 3.F.9

46. For sub-paragraph (c) of paragraph (1) of regulation 3.F.9 (procedure for applications under regulation 3.F.8), substitute—

“(c) may only be made—

- (i) during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of this Section of the Scheme and before the applicant reaches the age of 65, or

- (ii) where the applicant is not eligible to be an active member of this Section of the Scheme and the application is made in respect of a transfer from a corresponding 2008 Scheme during the period of one year beginning with the day on which the applicant becomes eligible to be an active member of the 2015 Scheme if on that day paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment will be made.”.

Amendment of regulation 3.F.10

47. In paragraph (10) of regulation 3.F.10 (acceptance of transfer value payments)(1), omit “or the member’s spouse’s”.

Substitution of regulation 3.F.13

48. For regulation 3.F.13 (public sector transfer arrangements), substitute—

“Public sector transfer arrangements

3.F.13.—(1) This Chapter applies to a transfer where—

- (a) the member is an active member of the 2015 Scheme,
- (b) the member makes an application under regulation 3.F.8 for a transfer value payment in respect of some or all of the rights that have accrued to or in respect of the member under—
 - (i) an existing scheme listed in Schedule 5 to the 2013 Act,
 - (ii) an existing public body scheme listed in Schedule 10 to that Act,
 - (iii) another occupational pension scheme that participates in the Public Sector Transfer Club,
- (c) the application under regulation 3.F.8 is made within one year beginning with the day the member became eligible to be an active member of the 2015 Scheme and before the member reaches the member’s normal pension age in the 2015 Scheme,
- (d) the transfer value payment is made and accepted under the public sector transfer arrangements, and
- (e) on the day the transfer is completed, paragraph 2 of Schedule 7 to the 2013 Act applies to the period of service in respect of which the transfer value payment is made.

(2) This Chapter also applies in the case of any other transfer to which the public sector transfer arrangements apply (not being a transfer referred to in paragraph (1)) as it applies in other cases, except to the extent that—

- (a) any provision in this Chapter provides otherwise, or
- (b) the arrangements themselves make different provision.”.

New regulation 3.F.18

49. After regulation 3.F.17 (transfers across from the 1995 Section), insert—

“Right to transfer a deferred pension to the 2015 Scheme

3.F.18.—(1) An active member who meets both condition A and one of either condition B or condition C, may require the Scottish Ministers to use the cash equivalent of the member’s rights under this Section of the Scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is a deferred member of this Section of the Scheme, and
- (b) became an active member of the 2015 Scheme before attaining the age of 65.

(3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable service in respect of which that person is a deferred member of this Section of the Scheme and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(b).

(4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced, and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4) any break in active membership of this Section of the Scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

(6) The Scottish Ministers shall provide a member to whom this regulation applies with a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations at the guarantee date ("a statement of entitlement").

(7) In this regulation "the guarantee date" means any date that falls within the required period and is—

- (a) chosen by the Scottish Ministers,
- (b) specified in the statement of entitlement, and
- (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(9) In paragraph (7), "the required period" means—

- (a) the period of three months beginning with the date that the Scottish Ministers receives notification from the member's employing authority that the member has joined the 2015 Scheme; or
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Scottish Ministers, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971.

(11) The Scottish Ministers shall—

- (a) take advice from the Scheme Actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent, and
- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996.

(12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 3.F.10 (which deals with the crediting of additional service upon transfer), plus the amount of the member's contributions to this Section of the Scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Scottish Ministers for the cash equivalent of the member's rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and shall be—

- (a) made in writing on the form provided for this purpose by the Scottish Ministers;
- (b) made before the end of the period of three months beginning with the guarantee date;
- (c) irrevocable.

(15) On the making of such an application—

- (a) a member becomes entitled to be credited with an increase to the member's pensionable earnings in the 2015 Scheme in respect of the cash equivalent value of the member's benefits under this Section of the Scheme calculated in accordance with regulation 145 of the 2015 Scheme, and
- (b) the member's rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member's pensionable earnings in accordance with regulation 145 of the 2015 Scheme.

(16) A member's right to require the Scottish Ministers to use the cash equivalent of the member's rights in the way referred to in paragraph (1) may only be exercised once.”.

New regulation 3.J.15

50. After regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates), add—

“Benefit information statements

3.J.15.—(1) The Scottish Ministers must provide a benefit information statement to each member in accordance with—

- (a) section 14 (information about benefits) of the 2013 Act; and
- (b) any Treasury directions given from time to time pursuant to that section.

(2) Paragraph (1) does not provide a right for a member to request a benefit information statement.

(3) The Scottish Ministers are only required to provide a member with one benefit statement per scheme year.

(4) A benefit information statement provided pursuant to sub-paragraph (1) is to be treated as though it is the information mentioned in regulation 16(2)(a) of the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013(a) for the purposes of determining whether or not information must be given under regulation 16(1) of those Regulations.”.

PART 4

Amendment of the National Health Service (Scotland) (Injury Benefits) Regulations 1998

General

51. The National Health Service (Scotland) (Injury Benefits) Regulations 1998 are amended in accordance with regulations 52 to 55.

Amendment of regulation 2

52. In paragraph (1) of regulation 2 (interpretation)—

- (a) after the definition of “the 2013 Regulations”, insert—

“the 2015 Regulations” means the National Health Service Pension Scheme (Scotland) Regulations 2015;

“civil partner” and “civil partnership” are to be construed in accordance with regulation 2B;

“marriage” and “married” do not include a reference to marriage of a same sex couple unless otherwise provided;

“widow” and “widower” do not include a reference to marriage of a same sex couple;”;

- (b) omit the definition of “average remuneration”;
- (c) for the definition of “NHS employment”, substitute—

“NHS employment” has the same meaning as in the 2011 Regulations, the 2013 Regulations and the 2015 Regulations, as the case may be;”;
- (d) in the definition of “the Scheme”, for “and the 2013 Regulations” substitute “, the 2013 Regulations and the 2015 Regulations”; and
- (e) after paragraph (ii) in the definition of “practitioner”, insert—
 - (iii) in these Regulations, in relation to a person who is or is eligible to be a member of the Scheme set out in the 2015 Regulations, “practitioner” means those persons referred to in Parts 2 and 3 (medical contractors, dental contractors and independent providers and medical practitioners and dental practitioners) of Schedule 5 (employing authorities) to the 2015 Regulations, except locum practitioners;”.

New regulations 2A and 2B

53. After regulation 2 (interpretation), insert—

“Meaning of “average remuneration”

2A.—(1) In these Regulations, “average remuneration” means—

- (a) in relation to a practitioner to whom the 2011 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner’s uprated earnings in accordance with paragraph 11 of Schedule 2 to those Regulations;
- (b) in relation to a practitioner to whom the 2013 Regulations apply, the yearly average of such amount as would be, or would have been, that practitioner’s uprated earnings in accordance with regulation 3.D.1(4)(b) of those Regulations;
- (c) in relation to a practitioner or an non GP provider to whom the 2015 Regulations apply, that person’s yearly average earnings;
- (d) in relation to a person other than a practitioner to whom the 2011 Regulations apply, such amount as would be or would have been (as the case may be) that person’s final year’s pensionable pay under regulation C1(6) of those Regulations, (assuming, in the case of a person to whom regulation 3(1)(c) applies, that the person was in receipt of the pensionable pay which would, in the opinion of the Scottish Ministers, have been payable if the person were employed whole-time by an employing authority on similar duties);
- (e) in relation to a person other than a practitioner to whom the 2013 Regulations apply, such amount as would be or would have been (as the case may be) that person’s final year’s reckonable pay under regulation 2.A.11 of those Regulations;
- (f) in relation to a person other than a practitioner to whom the 2015 Regulations apply, that person’s yearly average earnings.

(2) The yearly average, final year’s pensionable pay and reckonable pay referred to in paragraph (1) are to be calculated as if the person to whom regulation 3(1) applies had retired—

- (a) in the case of a person eligible for an allowance under regulation 4(3A) or (3D), on the date on which that person ceased to be employed as a person to whom that regulation 3 applies;
- (b) in the case of a person eligible for an allowance under regulation 4(4), (4B), (5) or (5C), on the date on which that person's emoluments were reduced;
- (c) in the case of any other person, on the date on which by reason of the injury or disease that person's employment ceased.

This is subject to paragraphs (3) and (4).

(3) This paragraph applies to a person to whom regulation 3(1)(a) applies who was employed as a senior registrar, registrar, specialist registrar, senior house officer or house officer immediately before—

- (a) ceasing to be employed by reason of the injury or disease or as a person to whom that regulation applies, or
- (b) the date on which that person's emoluments were reduced.

(4) In the case of a person to whom paragraph (3) applies, average remuneration shall be increased to the amount which in the opinion of the Scottish Ministers represents the average remuneration of a general medical practitioner or, as the case may be, a general dental practitioner.

(5) In the case of a person to whom the 2015 Regulations apply, and who is neither a practitioner nor as a non-GP provider, that person's yearly average earnings are the greater of—

- (a) the optimum re-valued pensionable earnings in that person's NHS employment; and
- (b) the annual rate of pay for that employment at the time it ceased.

(6) In the case of a person to whom the 2015 Regulations apply, and who is either a practitioner or non-GP provider, that person's yearly average earnings are the average of the annual amounts of the person's re-valued pensionable earnings in respect of practitioner service (or service which is treated as practitioner service).

(7) The optimum re-valued pensionable earnings is the re-valued pensionable earnings for the scheme year in the earnings reference period for which the person has the greatest amount of re-valued pensionable earnings.

(8) The annual rate of pay is the sum of—

- (a) the annual rate of so much of the person's pensionable earnings immediately before the pension became payable as consisted of salary, wages, or other regular payments of a fixed nature, and
- (b) so much of any fees and other regular payments not of a fixed nature as—
 - (i) was payable to the person during the period of 12 months ending with the day the employment ceased, and
 - (ii) formed part of the person's pensionable earnings.”.

Civil partnerships and marriage of same sex couples

2B.—(1) In these Regulations, a reference to—

- (a) civil partnership is to be read as including a reference to marriage of a same sex couple and a reference to civil partners and a person who is in a civil partnership is to be construed accordingly;
- (b) a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, a reference to a person

whose civil partnership has ended, or a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.”.

Amendment of regulation 4

54. In regulation 4 (scale of benefits)—

(a) in sub-paragraph (a) of paragraph (6)—

(i) for paragraph (i), substitute—

“(i) reduction in the amount of that pension under regulation T6 or T7 of the 2011 Regulations, regulations 2.J.7, 2.J.8, 3.J.7 or 3.J.8 of the 2013 Regulations or paragraphs 11 or 12 of Schedule 3 to the 2015 Regulations (all of which deal with offset and loss of rights to benefits);”;

(ii) for paragraph (ii), substitute—

“(ii) reduction in the amount of that pension under regulation E3(7), E12(7) or E17 of the 2011 Regulations, regulation 2.D.14, 2.D.15, 3.D.10 or 3.D.11 of the 2013 Regulations or regulation 77 or 109 of the 2015 Regulations (all of which deal with exchanging a pension for a lump sum in cases of serious ill health);”;

(iii) for paragraph (iv), substitute—

“(iv) reduction in the amount of that pension under paragraph 14(b) of regulation T3 of the 2011 Regulations, paragraph (10)(b) of 2.J.9 or 3.J.9 of the 2013 Regulations or paragraph 16 of Schedule 3 to the 2015 Regulations (all of which deal deduction of tax);”;

(b) after sub-paragraph (b) of paragraph (10), insert—

“(c) in respect of a person who is or is eligible to be a member of the scheme set out in the 2015 Regulations—

(i) the person’s state pension age, or

(ii) 65, if that is higher.”.

Amendment of regulation 8

55. In paragraph (6) of regulation 8 (child’s allowance), for “or the 2013 Regulations” substitute “, the 2013 Regulations or the 2015 Regulations”.

PART 5

Amendment of the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998

General

56. The National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 are amended in accordance with regulations 57 to 68.

Amendment of regulation 2

57. In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the 2013 Regulations”, insert—

- “the 2014 Act” means the Taxation of Pensions Act 2014”;
- “the 2015 Regulations” means the National Health Service (Scotland) Pension Scheme Regulations 2015;”;
- (ii) insert the following definitions at the appropriate place in alphabetical order—
- ““civil partner” and “civil partnership” are to be construed in accordance with regulation 2A;
- “marriage” does not include a reference to marriage of a same sex couple unless otherwise provided;
- “widow” and “widower” do not include a reference to marriage of a same sex couple;”;
- (iii) in the definition of “child”—
- (aa) at the end of paragraph (a), omit “or”;
- (bb) at the end of paragraph (b), insert—
- “or
- (c) a child’s pension under regulation 121 of the 2015 Regulations;”;
- (iv) at the end of paragraph (b) of the definition of “date of retirement”, insert—
- “or
- (c) regulations 73, 79, 82, 84, 90 and 9 of the 2015 Regulations;”;
- (v) at the end of paragraph (c)(ii) of the definition of “dependant”, insert—
- “or
- (iii) regulation 51 of the 2015 Regulations;”;
- (vi) in the definition of “NHS Pension Scheme”, for “2011 Regulations and the 2013 Regulations” substitute “2011 Regulations, the 2013 Regulations or the 2015 Regulations”;
- (vii) in the definition of “normal benefit age” for paragraph (b), substitute—
- “(b) in the case of a person whose pension arrangements are governed by the 2013 Regulations, the age of 65;
- (c) in the case of a person whose pension arrangements are governed by the 2015 Regulations—
- (i) the person’s state pension age, or
- (ii) 65, if that is higher;”;
- (viii) in paragraph (a) of the definition of “participator”, for “11(3)” substitute “11”;
- (ix) in the definition of “pensionable employment”, after “1967” insert “or a determination under section 25(5) of the Public Service Pensions Act 2013”;
- (x) after paragraph (b) in the definition of “pensionable service”, insert—
- “(c) regulation 20 of the 2015 Regulations;” and
- (xi) after paragraph (b) in the definition of “retirement”, insert—
- “(c) the 2015 Regulations;” and
- (b) in paragraph (2), for “2011 Regulations or the 2013 Regulations” substitute “2011 Regulations, 2013 Regulations or the 2015 Regulations”.

Insertion of new regulation 2A

58. After regulation 2 (interpretation), insert—

“Civil partnerships and marriage of same sex couples

2A.—(1) In these Regulations, a reference to—

- (a) civil partnership is to be read as including a reference to marriage of a same sex couple and a reference to civil partners and a person who is in a civil partnership is to be construed accordingly;
- (b) a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, a reference to a person whose civil partnership has ended, or a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) In this regulation, “civil partnership” and “civil partners” have the meanings given by section 1 of the Civil Partnership Act 2004(d).”.

Amendment of regulation 3

59. In regulation 3 (making and acceptance of elections)—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a), for “or an annuity or a pension commencement lump sum and an annuity payable on retirement” substitute “one or more of the benefits referred to in regulation 11”;
 - (ii) omit “Paragraph (1)(a) is subject to regulation 11(1A).”;
- (b) in sub-paragraph (b) of paragraph (3), for “2011 Regulations (contributions by members) or regulation 2.C.1 or 3.C.1 of the 2013 Regulations (contributions by members)” substitute “2011 Regulations, regulation 2.C.1 or 3.C.1 of the 2013 Regulations or regulations 30 and 31 of the 2015 Regulations (all of which deal with member contributions)”;
- (c) after paragraph (6A), insert—

“(6B) A person whose membership of the NHS Pension Scheme Scotland is governed by the 2015 Regulations and who is in pensionable employment may, upon attaining normal benefit age—

 - (a) where contributions have been paid for the purposes of paragraph (1)(b), elect for further contributions to be paid for 12 months beyond the attainment of normal benefit age birthday, and
 - (b) continue to elect annually for further contributions to be paid provided that person remains in pensionable employment.

This is subject to subject to paragraph (5)(b) and regulation 4(4).”;
- (d) in paragraph (7), for “(1) or (6)” substitute “(1), (6), (6A) or (6B)”.

Amendment of regulation 4

60. In regulation 4 (payment and amount of additional voluntary contributions)—

- (a) in sub-paragraph (b) of paragraph (3), for “2011 Regulations or the 2013 Regulations” substitute “2011 Regulations, 2013 Regulations or the 2015 Regulations”; and
- (b) in the definitions of “employer” and “salary” in paragraph (3A), for “2011 Regulations or the 2013 Regulations” substitute “2011 Regulations, 2013 Regulations or the 2015 Regulations”.

Substitution of regulation 6

61. For regulation 6 (circumstances in which elections cease to have effect), substitute—

“Circumstances in which elections cease to have effect

6.—(1) Subject to paragraph (2), an election shall cease to have effect where a contributor—

- (a) leaves pensionable employment;
- (b) ceases to be in pensionable employment by virtue of an election under regulation B4 of the 2011 Regulations, regulation 2.B.6 or 3.B.6 of the 2013 Regulations or regulation 15(2) of the 2015 Regulations (all of which deal with opting-out of the scheme in question) as the case may be;
- (c) ceases to receive tax relief under section 190 of the 2004 Act (annual limit of relief) or otherwise in respect of contributions paid under regulation D1 of the 2011 Regulations, regulation 2.C.1 or 3.C.1 of the 2013 Regulations or regulations 30 and 31 of the 2015 Regulations (all of which deal with member contributions) as the case may be; or
- (d) receives payment of benefits under the 2011, 2013 or 2015 Regulations.

(2) A contributor whose election ceases in accordance with paragraph (1)(d) is not prevented from making a further election that complies with regulations 3 and 11(5).”.

Amendment of regulation 10

62. In regulation 10 (outward transfers)—

- (a) for paragraph (4), substitute—

“(4) If the Scottish Ministers are required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation M1 of the 1995 Regulations (member’s right to transfer or buy-out), the Scottish Ministers must do so in accordance with the time limit specified in regulation M5 of those Regulations as if the reference in that regulation to an application were a reference to a notice referred to in paragraph (1).

(4A) If the Scottish Ministers are required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation 2.F.1 or 3.F.1 of the 2008 Regulations (rights to transfer value payments), the Scottish Ministers must do so in accordance with the time limit specified in, as the case may be, regulation 2.F. 4 or 3.F.4 of those Regulations as if the reference in regulation 2.F.4 (or as the case may be) 3.F.4 to an application were a reference to a notice referred to in paragraph (1).

(4B) If the Scottish Ministers are required under paragraph (1) to make a transfer payment in circumstances where such a payment in respect of an eligible person is also provided and used in accordance with regulation 134 of the 2015 Regulations (rights to transfer value payment), the Scottish Ministers must do so in accordance with the time limit specified in regulation 137 of those Regulations as if the reference in that regulation to an application were a reference to a notice referred to in paragraph (1).” and

- (b) in paragraph (ii) of sub-paragraph (b) of paragraph (8), for “or regulation 2.F.14 or 3.F.14 of the 2013 Regulations” substitute “, regulation 2.F.14 or 3.F.14 of the 2013 Regulations or regulation 147 of the 2015 Regulations”.

Substitution of regulation 11

63. For regulation 11 (retirement and dependants’ pensions) substitute—

Retirement and dependants’ benefits

11.—(1) A participator may apply some or all of the proceeds of an investment made under regulation 7(1), 8(2) or 9(4) to arrange with an insurer—

- (a) payment of a lifetime annuity;

- (b) payment of a lifetime annuity and a pension commencement lump sum;
- (c) as from 6th April 2015, designation of a flexi-access draw-down fund for the purposes of—
 - (i) taking income draw-down payments, or
 - (ii) payment of a short-term annuity;
- (d) as from 6th April 2015, payment of one or more uncrystallised funds pension lump sums;
- (e) in the case of a single authorised fund, payment of a lump sum that will discharge its liability for payment of benefits under these Regulations;
- (f) in the case of more than one authorised fund, payment of a lump sum from each such fund that will discharge its liability for payment of benefits under these Regulations.

This is subject to paragraphs (10) to (13) and regulation 15(10) and (11).

(2) The benefit payments referred to in—

- (a) paragraph (1)(a) to (d) must comply with the requirements of the 2014 Act;
- (b) paragraph 1(e) or (f) must—
 - (i) represent the capital value of the benefits referred to in paragraph (1)(a) or (b), and
 - (ii) meet the requirements of regulation 12 of the Registered Pension Schemes (Authorised Payments) Regulations 2009(a) (payments by larger pension schemes).

(3) An authorised provider selected by the Scottish Ministers, must provide a participator with an option to receive benefits under paragraph 1(a), (b) or where appropriate, (e) or (f) This is subject to paragraph (4).

(4) Any annuity payable in accordance with paragraph (1) must—

- (a) be incapable, in whole or in part, of surrender, assignment or commutation;
- (b) commence not earlier than the participator's date of retirement;
- (c) be payable to the participator for life;
- (d) any dependant's pension which is payable under it is payable only on the death of the participator after the participator's retirement and is payable to the dependant for life: this is subject to paragraph (5).

(5) In the case of a person who is a child to whom—

- (a) Part H of the 2011 Regulations (child allowance) applies;
- (b) regulation 2.E.9 or 3.E.9 of the 2013 Regulations applies (meaning of dependant child); or
- (c) regulation 122 of the 2015 Regulations (eligible child) applies,

a pension referred to in paragraph (4)(b)(iv) ceases to be payable when that person ceases to be a dependant child within the meaning of whichever of those Regulations applies.

(6) An authorised provider selected by the Scottish Ministers may, in addition to providing a participator with benefits options under paragraph (1) and in accordance with paragraph (3), may from 6th April 2015 provide a participator with alternative benefit options under paragraph (1).(7) A participator must, not earlier than 3 months before the date of retirement, make a benefits election to the Scottish Ministers specifying—

- (a) whether benefits are to be provided under paragraph (3) or, alternatively, paragraph (6);
- (b) the authorised provider who is to provide each benefit;

(a) S.I. 2999/1171.

- (c) for whom, if anyone, a dependant's benefit is to be provided;
- (d) if more than one benefit is to be provided, either—
 - (i) the proportion of the amount secured by the total investments made under regulation 7(1), 8(2) or 9(4) that is to be applied to the purchase or arrangement of each of them; or
 - (ii) the dependants' benefits to be provided expressed as a percentage of the participator's benefits;
- (e) in respect of every annuity to be provided—
 - (i) the annual rate of the annuity;
 - (ii) whether it is to be payable for life or for a fixed period;
 - (iii) whether its rate is to be fixed or vary in accordance with the Index or increase yearly by a specified percentage or (if lower) increase by the increase in the Index for the year in question;
 - (iv) as from 6th April 2015, whether the rate may reduce;
- (f) in the case of a participator who chooses—
 - (i) a life-time annuity referred to in paragraph (1)(a) or (b) and who dies within the period of 5 years, beginning with the date on which the annuity commences, or
 - (ii) a participator who chooses a short-term annuity referred to in paragraph (1)(c) and who dies before the end of the term.

whether a lump sum is to be paid in accordance with regulation 15(3) equal to the balance that would have been payable during the remainder of that period, if the annuity had continued at the rate in force at the time of the participator's death.

(8) A benefits election must be in writing.

(9) Upon receipt of a notice of election under paragraph (7), the Scottish Ministers must, as soon as reasonably practicable, realise the investments made under regulations 7(1), 8(2) or 9(4) and apply the proceeds in the manner specified in the notice of election.

(10) Where a participator dies before retirement or after retirement but before the benefits under this regulation are acquired, the investments made under regulation 7(1), 8(2) or 9(4) must be realised and are, subject to any limit imposed by regulation 13, payable as a lump sum in accordance with regulation 15(3).

(11) The Scottish Ministers may realise the investments made under regulation 7(1), 8(2) or 9(4) and apply the proceeds to the purchase of a pension policy from an insurer in order to provide such benefits as appear to the Scottish Ministers to be suitable where the conditions in paragraph (12) are satisfied.

(12) Those conditions are—

- (a) the participator's retirement date falls on or after 1st December 1999; and
- (b) the participator has attained the age of 75 and has not given a notice of election under paragraph (7) before doing so.

(13) Paragraph (11) applies notwithstanding that benefits are payable to the participator under—

- (a) Part E of the 2011 Regulations (benefits for members);
- (b) regulation 2.D.1, 2.D.4, 2.D.5, 2.D.8, 2.D.10, 2.D.11, 3.D.1, 3.D.4, 3.D.5, 3.D.7, or 3.D.9 of the 2013 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions), or
- (c) regulation 73, 79, 81, 82, 84, 90 or 94 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions)."

Amendment of regulation 14

64. In sub-paragraph (b) of paragraph (1) of regulation 14 (repayment of investments in certain cases)—

- (a) at the end of paragraph (i), omit “or”; and
- (b) at the end of paragraph (ii), insert—
 - “or
 - (iii) regulation 40 of the 2015 Regulations (eligibility for refund).”.

Amendment of regulation 15

65. In regulation 15 (payments by the Scottish Ministers)—

- (a) for paragraph (1), substitute—

“(1) Where an authorised provider or a selected authorised provider fails to pay a benefit referred to in regulation 11(1) or a lump sum benefit referred to in regulation 12, the Scottish Ministers are liable to pay that amount.”;
- (b) in paragraph (3)—
 - (i) for “regulation 11(1B), 11(1C), 11(4), 11(7) or” substitute “regulation 11(6)(f), (10) and 12”; and
 - (ii) for sub-paragraph (b), substitute—

“(b) to the deceased’s personal representatives if—

 - (i) there is no spouse, nominated partner or civil partner, or
 - (ii) a notice has been given in accordance with any of the provisions referred to in paragraph (3A) that the spouse, nominated partner or civil partner is not to receive the payment.”;
- (c) after paragraph (3), insert—

“(3A) The provisions referred to in paragraph (3)(b) are—

 - (a) regulation F5 of the 2011 Regulations (payment of lump sum);
 - (b) regulation 2.E.22 or 3.E.22 of the 2013 Regulations (payment of lump sum on death);
 - (c) regulation 112 of the 2015 Regulations (lump sum on death);
 - (d) paragraph 11 of Schedule 2.”;
- (d) for paragraph (4), substitute—

“(4) Lump sums payable under regulation 11(1)(b), 11(1)(d) to (f) or 11(8) must be paid to the participator.”;
- (e) in paragraph (9), for “regulations E1” to “pensions)” substitute “the provisions referred to in paragraph (9A)”.
- (f) after paragraph (9), insert—

“(9A) Those provisions are—

 - (a) regulations E1 to E5 of the 2011 Regulations (benefits for members and preserved pension);
 - (b) regulation 2.D.1, 2.D.4, 2.D.5, 2.D.8, 2.D.10, 2.D.11, 3.D.1, 3.D.4, 3.D.5, 3.D.7, or 3.D.9 of the 2013 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions);
 - (c) regulation 73, 79, 81, 82, 84, 90 or 94 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions).”;
- (g) after sub-paragraph (b) of paragraph (10), insert—

“(c) regulation 109 of the 2015 Regulations (option for members in serious ill-health to exchange pension for lump sum),”.

Amendment of regulation 19

66. For paragraph (a) of regulation 19 (offset for crime, negligence or fraud), substitute—

“(a) the circumstances set out in any of the following provisions have occurred—

- (i) regulation T6 of the 2011 Regulations (offset for crime, negligence or fraud);
- (ii) regulation 2.J.7 or 3.J.7 of the 2013 Regulations (reduction in benefits in cases where loss caused by member’s crime, negligence or fraud);
- (iii) paragraph 11 of Schedule 3 to the 2015 Regulations (offset of benefits);”.

Substitution of regulation 20

67. For regulation 20 (loss of rights to benefits), substitute—

“Loss of rights to benefits

20.—(1) Where paragraph (2) applies, the Scottish Ministers may direct that all or any part of any rights to benefit a person has under these Regulations and which arise by virtue of an employer’s contributions paid on or after the date on which these Regulations come into force, are to be forfeited.

(2) This paragraph applies where on or after the date these Regulations come into force—

- (a) that person commits and is convicted of an offence referred to in—
 - (i) regulation T7 of the 2011 Regulations (loss of rights to benefits);
 - (ii) regulation 2.J.8 or 3.J.8 of the 2013 Regulations (forfeiture of rights to benefits), or
 - (iii) paragraph 12 of Schedule 3 to the 2015 Regulations (forfeiture of rights to benefits), and
- (b) the circumstances are such that a direction may be made by the Scottish Ministers under whichever of those provisions applies.”.

Amendment of Schedule 2

68. In Schedule 2 (pension sharing on divorce or nullity of marriage or dissolution or nullity of civil partnership)—

(a) in paragraph 1 (discharge of liability in respect of pension credit)—

(i) for paragraph (b) of sub-paragraph (5), substitute—

(b) any dependant’s pension which is payable under it is payable only on the death of the pension credit member after that member has reached normal benefit age and is payable to the dependant for life: this is subject to paragraph (6).”;

(ii) after sub-paragraph (5), insert—

“(6) In the case of a person who is a child to whom—

- (a) Part H of the 2011 Regulations (child allowance) applies;
- (b) regulation 2.E.9 or 3.E.9 of the 2013 Regulations applies (meaning of dependant child), or
- (c) regulation 122 of the 2015 Regulations (eligible child) applies,

a pension referred to in paragraph (5)(b) ceases to be payable when that person ceases to be a dependant child within the meaning of whichever of those Regulations applies.”.

(b) in paragraph 4 (pension credit benefit)—

- (i) in sub-paragraph (4), for “paragraph (1)” substitute “sub-paragraph (1) and any alternative benefit referred to in sub-paragraph (5A)”;
- (ii) after sub-paragraph (5), insert—
 - “(5A) An authorised provider selected by the Scottish Ministers—
 - (a) must provide a pension credit member with an option to receive the benefits referred to in sub-paragraph (5)(a), (aa) and (b); and
 - (b) may, as from 6th April 2015, provide such a member with an option to receive the alternative benefits referred to in sub-paragraph (5B).
 - (5B) Those alternative benefits are benefits that are equal in value to the benefits referred to (5)(a), (aa) and (b) and which comply with the requirements of the 2014 Act.
 - (5C) A member who wishes to be provided with such alternative benefits must elect to do so by giving the Scottish Ministers notice in writing not earlier than 3 months before attaining normal benefit age.
- (iii) in sub-paragraph (7)—
 - (aa) after “sub-paragraph (5)” insert “, or as the case may be, sub-paragraph (5C)”;
 - (bb) after paragraph (b) insert—
 - “(c) where sub-paragraph (5C) applies, pay the alternative benefits the pension credit member has elected to be provided with,”;
- (iv) for sub-paragraphs (8) and (9), substitute—
 - “(8) Where the conditions in sub-paragraph (9) are satisfied, the Scottish Ministers may realise the investments made under paragraph 2 and apply the proceeds to the purchase of benefits under these Regulations from an insurer that the Scottish Ministers consider—
 - (a) suitable;
 - (b) will satisfy the requirements of regulations 12 to 14 of the Pension Sharing (Pension Credit Benefit) Regulations 2000;
 - (c) will comply with the requirements of the 2014 Act, and
 - (d) will fully discharge its liability for payment of benefits under these Regulations.
 - (9) Those conditions are that the pension credit member has—
 - (a) attained normal benefit age on or after 1st May 2001; and
 - (b) attained the age of 75 and not given notice of an election under sub-paragraph (5) before doing so.
 - (10) Paragraph (8) applies notwithstanding that the benefits are payable to a pension credit member by virtue of that member being a member of the NHS Pension Scheme under—
 - (a) Part E or regulation L1 of the 1995 Regulations (benefits for members and preserved pension);
 - (b) regulation 2.D.1, 2.D.4, 2.D.5, 2.D.8, 2.D.10, 2.D.11, 3.D.1, 3.D.4, 3.D.5, 3.D.7, or 3.D.9 of the 2008 Regulations (normal retirement pensions, actuarially reduced pensions, ill health pensions and early retirement pensions), or
 - (c) regulation 73, 79, 81, 82, 84, 90 or 94 of the 2015 Regulations (age retirement, early retirement, partial retirement and ill-health pensions).”;
- (c) for paragraph (b) of sub-paragraph (2) of paragraph 7 (commutation of the whole of pension credit at normal benefit age), substitute—
 - “(b) the total benefits payable would be treated as a trivial amount under, as the case may be—
 - (i) paragraph 3(b) of regulation V9 of the 2011 Regulations (commutation of whole of pension credit benefit at normal benefit age);

- (ii) regulation 2.J.5 or 3.J.5 of the 2013 Regulations (commutation of small pensions);
 - (iii) paragraph 6 of Schedule 3 to the 2015 Regulations (commutation of small pensions).”;
- (d) for paragraph 13 substitute—

”Offset for crime, negligence or fraud

13.—(1) This paragraph applies in relation to pension credit benefit which arises by virtue of pension credit rights which are derived from an employer’s contributions paid on or after the date on which the AVC Regulations came into force in respect of the relevant participator.

(2) Where paragraph (3) applies, the Scottish Ministers may reduce the amount of any pension credit benefit payable to or in respect of a pension credit member under this Schedule to the extent set out, and subject to the conditions specified, in whichever of the regulations referred to in that paragraph applies.

(3) This paragraph applies where on or after the date these Regulations come into force—

- (a) in respect of a relevant pension credit member the circumstances set out in whichever of the following regulations applies have occurred—
 - (i) regulation T6 of the 2011 Regulations (offset for crime, negligence or fraud);
 - (ii) regulation 2.J.7 or 3.J.7 of the 2013 Regulations (reduction in benefits in cases where loss caused by member’s crime, negligence or fraud);
 - (iii) paragraph 11 of Schedule 3 to the 2015 Regulations (offset of benefits), and
- (b) there has been a loss to public funds.

(4) In this paragraph—

“relevant pension credit member” means a pension credit member who is also a member of the NHS Pension Scheme;

“relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”;

- (e) for paragraph 14 (loss of rights to benefits), substitute—

“Loss of rights to benefits

14.—(1) Where paragraph (2) applies, the Scottish Ministers may direct that all or any part of any rights to pension credit benefit a pension credit member has under this Schedule and which arise by virtue of an employer’s contributions paid on or after the date on which the AVC Regulations come into force in respect of a relevant participator, are to be forfeited.

(2) This paragraph applies where on or after the date these Regulations come into force—

- (a) that pension credit member commits and is convicted of an offence referred to in—
 - (i) regulation T7 of the 2011 Regulations (loss of rights to benefits);
 - (ii) regulation 2.J.8 or 3.J.8 of the 2013 Regulations (forfeiture of rights to benefits), or
 - (iii) paragraph 12 of Schedule 3 to the 2015 Regulations (forfeiture of rights to benefits), and
- (b) the circumstances are such that a direction may be made by the Scottish Ministers under whichever of those regulations applies.

(3) In this paragraph, “relevant participator” means the participator in relation to whose rights under the AVC scheme the pension sharing order or provision, which gave the pension credit member in question entitlement to a pension credit, was made.”.

PART 6

Amendment of the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003

General

69. The National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003 are amended in accordance with regulations 70 and 71.

Amendment of regulation 2

70. In regulation 2 (interpretation), at the appropriate place in alphabetical order insert—

““civil partner” and “civil partnership” are to be construed in accordance with regulation 2A;

“widow” and “widower” do not include a reference to marriage of a same sex couple;”.

Insertion of regulation 2A

71. After regulation 2 (interpretation), insert—

“Civil partnerships and marriage of same sex couples

2A.—(1) In these Regulations, a reference to—

(a) civil partnership is to be read as including a reference to marriage of a same sex couple and a reference to civil partners and a person who is in a civil partnership is to be construed accordingly;

(b) a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, a reference to a person whose civil partnership has ended, or a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) In this regulation, “civil partnership” and “civil partners” have the meanings given by section 1 of the Civil Partnership Act 2004(a).”.

PART 7

Miscellaneous

Option to persons detrimentally affected by these Regulations

72.—(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 six 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

2014

A member of the Scottish Government

2014

Two of the Lords 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 2011 (S.S.I. 2011/117) (“the 2011 Regulations”), the National Health Service Superannuation Scheme (Scotland) (2008 Section) Regulations 2013 (S.S.I. 2013/174) (“the 2013 Regulations”), the National Health Service (Scotland) (Injury Benefits) Regulations 1998 (S.I.1998/1594) (“the IB Regulations”), the National Health Service Superannuation Scheme (Additional Voluntary Contributions) Regulations 1998 (S.I. 1998/1451) (“the AVC Regulations”) and the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003 (S.S.I. 2003/344)

The Regulations are divided into seven Parts. Part 1 is introductory, Parts 2 and 3 amend the 2011 Regulations and the 2013 Regulations respectively, Part 4 makes consequential amendments to the IB Regulations, Part 5 makes consequential amendments to the AVC Regulations, Part 6 makes changes to the Compensation Regulations and Part 7 provides that certain persons detrimentally affected by these Regulations may elect for its provisions not to apply to them.

Parts 2 and 3 make similar amendments in respect of both the 2011 Regulations and the 2013 Regulations. They also introduce amendments specific to either the 2011 Regulations or the 2013 Regulations.