

**2022 No.**

**NATIONAL HEALTH SERVICE**

**The National Health Service Superannuation and Pension  
Schemes (Miscellaneous Amendments) (Scotland) Regulations  
2022**

*Made* - - - - - \*\*\*

*Laid before the Scottish Parliament* \*\*\*

*Coming into force* - - - - - *1<sup>st</sup> April 2022*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 1(1) and (2)(e), 2(1) and 3(1) to 3(3) of, and paragraph 5(a) of schedule 2, and schedule 3, of the Public Service Pensions Act 2013<sup>(a)</sup> and all other powers enabling them to do so.

In accordance with section 22(2)(a) of the Public Service Pensions Act 2013, the Scottish Ministers consulted the representatives of such persons as appeared to them likely to be affected by these Regulations. In accordance with section 22(2)(b) of that Act, the Scottish Ministers laid before the Scottish Parliament a report concerning the changes to members' contribution rates under the NHS Pension Scheme (Scotland) 2015<sup>(b)</sup> made by these Regulations.

In accordance with section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury.

**PART 1**

**Introductory**

**Citation and commencement**

**1.** These Regulations may be cited as the National Health Service Superannuation and Pension Schemes (Miscellaneous Amendments) (Scotland) Regulations 2022 and come into force on 1 April 2021.

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<sup>(a)</sup> 2013 c. 25.

<sup>(b)</sup> The pension scheme established by S.S.I. 2015/94 is to be known in terms of regulation 2(2) of that instrument as the NHS Pension Scheme (Scotland) 2015.

## PART 2

### Amendment of the National Health Service Pension Scheme (Scotland) Regulations 2015

2. The National Health Service Pension Scheme (Scotland) Regulations 2015(a) are amended in accordance with regulations 3 to 6.

#### Amendment of regulation 30

3. In regulation 30 (members' contributions: employees)—

(a) in paragraph (3)—

(i) after sub-paragraph (g)(b), insert—

“(h) for the scheme year 2022/23 is the percentage specified in column 2 of Table 8 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall,”, and

(ii) after table 7(c), insert—

**“Table 8**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	
£13,331 - £21,614	
£21,615 - £25,981	
£25,982 - £32,915	
£32,916 - £48,784	
£48,785 - £65,376	
£65,377 to any higher amount	

(b) after paragraph (3) insert—

“(3A) Where paragraph 2A or 3 of Schedule 9 applies, M's contribution rate for the scheme year 2022/23 is the percentage specified in column 2 of Table 9 below in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall.

**Table 9**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	
£13,331 - £21,614	
£21,615 - £25,981	
£25,982 - £32,915	
£32,916 - £48,784	
£48,785 - £65,376	
£65,377 to any higher amount	

(a) S.S.I. 2015/94. Relevant amending instruments are S.S.I. 2016/97, S.S.I. 2017/28, S.S.I. 2017/434, S.S.I. 2019/46, S.S.I. 2020/30 and S.S.I. 2021/102.

(b) Sub-paragraph (g) was inserted by S.S.I. 2021/102.

(c) Table 7 was inserted by S.S.I. 2021/102.

### **Amendment of regulation 31**

**4.** In regulation 31 (members' contributions: practitioners and non-GP providers)—

(a) in paragraph (3), after sub-paragraph (g)(a), insert—

“(h) for the scheme year 2022/23 is the percentage specified in column 2 of Table 8 in paragraph (9) in respect of the corresponding pensionable earnings band specified in column 1 into which M's pensionable earnings fall.”, and

(b) in paragraph (9), after table 7(b) insert—

**“Table 8**

<i>Column 1</i>	<i>Column 2</i>
<i>Pensionable earnings band</i>	<i>Contribution percentage rate</i>
Up to £13,330	
£13,331 - £21,614	
£21,615 - £25,981	
£25,982 - £32,915	
£32,916 - £48,784	
£48,785 - £65,376	
£65,377 to any higher amount	

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(a) Sub-paragraph (g) was inserted by S.S.I. 2021/102.

(b) Table 7 was inserted by S.S.I. 2021/102.

### Amendment of regulation 37

5. In regulation 37 (members' contributions: supplementary: medical practitioners and non-GP providers)—

- (a) in paragraph (3)—
  - (i) for “the Table” in the first place it occurs, substitute “the relevant table in regulation 31”,
  - (ii) for “the Table” in the second place it occurs, substitute “that table”,
- (b) in paragraph (4), for “Table” substitute “relevant table in regulation 31”.

### Amendment of Schedule 9

6. In Schedule 9 (determination of pensionable earnings: setting contribution rates)—

- (a) in paragraph 1 (introduction)—
  - (i) in sub-paragraph (a), omit the word “and”,
  - (ii) in sub-paragraph (b)—
    - (aa) at the beginning insert “subject to sub-paragraph (c),”,
    - (bb) after “time” insert “with different employing authorities”,
  - (iii) in sub-paragraph (b)(ii), for the full stop at the end substitute “; and”,
  - (iv) after sub-paragraph (b)(ii) insert—
    - “(c) if a member holds two or more pensionable employments at the same time with the same employing authority—
      - (i) the determinations referred to in paragraphs 2 to 4 apply to the aggregate of pensionable earnings for all such employments with that employing authority; and
      - (ii) all such employments with that employing authority are treated together for the purpose of paying contributions.”
- (b) in paragraph 2 (continuous employment spanning two scheme years)—
  - (i) in sub-paragraph (1)—
    - (aa) for “Sub-paragraph (2)” substitute “This paragraph”,
    - (bb) for “M” to the end substitute—
      - “(M)—
        - (a) who is in pensionable employment with the same employing authority on both—
          - (i) the last day of the previous scheme year; and
          - (ii) the first day of the current scheme year; and
        - (b) falls within any of the cases in sub-paragraph (2).”
    - (ii) in sub-paragraph (2), for the table of cases substitute—

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<i>Column 1</i>	<i>Column 2</i>
<b>CASE 1</b>	
M—  (a) was in pensionable employment with an employing authority throughout the previous scheme year; and	The amount of M's pensionable earnings received during the previous scheme year.

<p>(b) paid contributions at the same percentage rate throughout that year.</p>	
<b>CASE 2</b>	
<p>M—</p> <p>(a) was in pensionable employment with an employing authority throughout the previous scheme year: and</p> <p>(b) did not pay contributions at the same percentage rate throughout that year.</p>	<p>The amount of M's pensionable earnings determined by the formula-</p> $\frac{RPE}{365} \times NDPE$ <p>where-</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period-</p> <p>(i) starting on the date M's contribution rate last changed in the previous scheme year; and</p> <p>(ii) ending of the last day of that year; and</p> <p>NDPE is the number of days of pensionable employment with the employing authority-</p> <p>(i) starting on the date M's contribution rate last changed in that year; and</p> <p>(ii) ending on the last day of that year.</p>
<b>CASE 3</b>	
<p>M—</p> <p>(a) started pensionable employment with an employing authority during the previous scheme year; and</p> <p>(b) paid contributions at the same percentage rate from the date the employment started to the last day of that year.</p>	<p>The amount of M's pensionable earnings determined by the formula-</p> $\frac{RPE}{365} \times NDPE$ <p>where-</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period-</p> <p>(i) starting on the date M started that employment in the previous scheme year; and</p> <p>(ii) ending on the last day of that year: and</p>

	<p>NDPE is the number of days of pensionable employment with the authority</p> <p>(i) starting on the day M started that employment in that year; and</p> <p>(ii) ending on the last day of that year.</p>
<b>CASE 4</b>	
<p>M—</p> <p>(a) started pensionable employment with an employing authority during the previous scheme year; and</p> <p>(b) did not pay contributions at the same percentage rate from the date the employment started to the last day of that year</p>	<p>The amount of M's pensionable earnings determined by the formula-</p> $\frac{\text{RPE}}{\text{NDPE}} \times 365$ <p>where-</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period-</p> <p>(i) starting on the date M's contribution rate last changed in the previous scheme year; and</p> <p>(ii) ending on the last day of that year; and</p> <p>NDPE is the number of days of pensionable employment with the authority-</p> <p>(i) starting on the date M's contribution rate last changed in that year; and</p> <p>(ii) ending on the last day of that year.</p>
<b>CASE 5</b>	
<p>M—</p> <p>(a) was in pensionable employment on a part-time basis with an employing authority throughout the previous scheme year and during that year M's annual rate of pensionable earnings in respect of that employment changed; and</p> <p>(b) paid contributions in respect of that period at the</p>	<p>The amount of M's pensionable earnings determined by the formula-</p> $\frac{\text{RPE}}{\text{NDPE}} \times 365$ <p>where-</p> <p>RPE is the pensionable earnings received in respect of M's employment for the period-</p>

<p>same percentage rate throughout the year.</p>	<p>(i) starting on the date M’s annual rate of pensionable earnings last changed in the previous scheme year; and</p> <p>(ii) ending on the last day of that year; and</p> <p>NDPE is the number of days of pensionable employment with the authority-</p> <p>(i) starting on the date M’s annual rate of pensionable earnings last changed in that year; and</p> <p>(ii) ending on the last day of that year.</p>
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(iii) omit sub-paragraphs (3) and (4).

(c) after paragraph 2 (continuous employment spanning two scheme years), insert—

**“ Members who do not fall within any of the cases in paragraph 2**

**2A.—**(1) This paragraph applies for the purpose of determining the relevant contribution rate for the current scheme year for a member—

- (a) who is in pensionable employment with the same employing authority on both—
  - (i) the last day of the previous scheme year; and
  - (ii) the first day of the current scheme year; and
- (b) does not fall within any of the cases within column 1 of the table in paragraph 2.

(2) Where this paragraph applies—

- (a) the scheme manager must determine the amount of the member’s pensionable earnings; and
- (b) the member must pay contributions during the current scheme year at the rate specified in column 2 of Table 9 in paragraph (3A) of regulation 30 in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to the amount so determined.

(3) For the purposes of sub-paragraph (2)(a), the scheme manager must take the advice of the scheme actuary and have regard to—

- (a) pensionable earnings attributable to pensionable service comparable to that of the member;
- (b) prevailing pay scales;
- (c) prevailing rates of pensionable allowances.

(4) A member is regarded as being in pensionable employment throughout the previous scheme year regardless of any period in that year during which the member continued to be employed by the same employer, but did not make contributions to this scheme.

(5) For the purposes of calculating the member’s pensionable earnings, additional pensionable earnings that the member is treated as having received during an absence from work (see regulation 28) are included.

(6) The amount of pensionable earnings determined in accordance with this paragraph must be rounded down to the nearest whole pound.”

- (d) In paragraph 3 (change to employment or rate of pensionable earnings or allowances)—
- (i) in sub-paragraph (1), for “(3)” substitute “(3A)”,
  - (ii) in sub-paragraph (2)(a), for “(3)” substitute “(3A)”,
  - (iii) omit sub-paragraph (4),
  - (iv) for sub-paragraph (5) substitute—
- “(5) Where sub-paragraph (1) or (2) applies the scheme manager must determine the member’s pensionable earnings by applying the formula—

$$\frac{\text{EPE} \times 365}{\text{NDPE}}$$

NDPE

Where, for the purposes of this sub-paragraph-

EPE is the pensionable earnings that the member’s employing authority estimates will be payable to the member from the date the employment mentioned in that sub-paragraph starts to the end of the current scheme year; and

NDPE is the number of days pensionable employment from the date the employment starts to the end of that year.”

- (e) in sub-paragraph (7), for “(6)” to the end substitute “(6) is to be taken as such amount as the employing authority considers appropriate for the current scheme year.”.

*Name*  
Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
Date

We consent

Two of the Lords Commissioners of  
Her Majesty’s Treasury



## **EXPLANATORY NOTE**

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

These Regulations amend the National Health Service Pension Scheme (Scotland) Regulations 2015 (“the 2015 Regulations”).

The Regulations come into force on 1 April 2022.

The following are the main changes brought about by this instrument.

First, it amends the provisions relating to employee contributions and inserts new tables reflecting revised employee contribution rates for 2022/23. In particular, regulation 3 inserts updated employee contribution bands for the scheme year 2022-23. Regulation 4 inserts updated contribution bands for practitioners and non-GP providers for the scheme year 2022-23.

Second, regulation 5 makes minor changes to regulation 37 of the 2015 Regulations.

Third, regulation 6 makes amendments to the 2015 Regulations to allow for the assessment of a tiered contribution rate for part-time employed members based on their actual annual rate of pay rather than the notional whole-time equivalent.