
SCOTTISH STATUTORY INSTRUMENTS

2008 No.

NATIONAL HEALTH SERVICE

**The National Health Service Superannuation Scheme (Scotland)
Amendment Regulations 2008**

<i>Made</i> - - - -	2008
<i>Laid before the Scottish Parliament</i>	2008
<i>Coming into force</i> - -	2008

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

In accordance with section 10(4) of that Act, they have consulted with such representatives of persons likely to be affected by these Regulations as appear to be appropriate:

Citation, commencement and extent

1. — These Regulations may be cited as the National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2008 and shall come into force on 2008 but shall have effect from 1st April 2008.

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

2. The National Health Service Superannuation Scheme (Scotland) Regulations 1995^(c) shall be amended in accordance with regulations 3 to 61 of these Regulations.

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

(2) Insert the following definitions in the appropriate place in alphabetical order—

““scheme year” a period of one year beginning on 1st April and ending on 31st March;”;

““section 9(2B) rights” The same meaning as it has in the Occupational Pension Schemes (Contracting-out) Regulations 1996^(d)”; and

(a) See the Superannuation Act 1972, section 10(1). This function was transferred to the Treasury by virtue of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), Article 2 and is still exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.

(b) 1972 c.11; section 10 was amended by the National Health Service (Scotland) Act 1972 (c.58), Schedule 7, Part II, sections 10 and 12 were amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7), sections 4(2), 8(5) and 10; section 10(6) was amended by the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 7; the functions of the Secretary of State were transferred to Scottish Ministers by virtue of article 2 of and Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).

(c) S.I. 1995/365 amended by S.I. 1997/1434 and 1916, 1998/1593, 1999/443, 2001/3649 and 2005/2011 and S.S.I. 2001/437 and 465, 2003/55, 270 and 517, 2005/512 and 544, 2006/307 and 561 and 2008/??

(d) S.I. 1996/1172.

““tax year” Any year beginning on 6th April and ending on 5th April the following year;”.

(3) For the meaning of “final year’s pensionable pay” substitute “The meaning given in regulation C1”.

4. Amendment of regulation B2 For regulation B2 (restrictions on membership) substitute–

“Age limits and Restrictions on membership

B2.—(1) A person is not eligible to join the scheme if–

- (a) that person is–
 - (i) under the age of 16;
 - (ii) over the age of 75; or
 - (iii) over the age of 70 on or before 31st March 2008;
- (b) that person is a special class officer over the age of 65;
- (c) that person is an officer in “contributory service” under the Teacher’s Superannuation (Scotland) Regulations 2005^(a) in any hospital vested in the Scottish Ministers;
- (d) that person holds an honorary appointment and does not at the same time hold any other employment which entitles him to join the scheme;
- (e) that person is not a practitioner and is employed by a GDS or PDS contractor;
- (f) that person, on or after 1st April 2008, enters pensionable employment for the first time and has not previously been a member of the scheme;
- (g) that person, on or after 1st April 2008, returns to pensionable employment and was entitled to a refund of contributions under regulation E9 when he last left employment, unless paragraph (4), but not paragraph (5), of regulation L1 applies to that person; or
- (h) that person is a person who–
 - (i) leaves pensionable employment on, or after, 1st April 2008; and
 - (ii) before returning to NHS employment, exercises his right to transfer out all of his benefits in the scheme in accordance with regulation M1 or M2.

(2) In paragraph (1), “pensionable employment” includes employment that qualified the member for a benefit under a health service scheme.”.

5. Amendment of regulation B3—(1) Regulation B3 is amended as follows.

(2) For paragraph (1) substitute –

“(1) Members who cease to satisfy the conditions for eligibility for membership specified in regulation B1(1) may not continue to contribute to or accrue further pensionable service under the scheme.”

(3) In paragraph (2), for “(further pensionable employment under the age of 50 after early retirement pension becomes payable on grounds of ill-health)” substitute “, E2A(11)”.

6. Amendment of regulation C1—(1) Regulation C1 (meaning of “pensionable” pay) is amended as follows.

(2) After paragraph (1) insert–

“(1A) Paragraphs (2) to (4) and (5) to (6) apply in respect of pensionable employment before 1st April 2008.”.

(3) After paragraph (4) insert–

(a) SSI 2005/393.

“(4A) Paragraphs (4B) to (6) apply in respect of pensionable employment on, or after, 1st April 2008.

(4B) Subject to paragraph (4C), pensionable pay in excess of the permitted maximum will not be ignored.

(4C) Pensionable pay in excess of the permitted maximum will be ignored in respect of additional service being bought under regulation Q1 if, before 1st April 2008, the member’s pensionable pay–

- (a) was restricted under regulation C1(2); or
- (b) would have been restricted under regulation C1(2) if it had exceeded the permitted maximum.”.

(4) After paragraph (5) insert–

“(5A) In these Regulations, “final year’s pensionable pay” means pensionable pay in respect of the member’s last year of pensionable employment, ending on the date the member ceases to be in such employment, or dies, whichever occurs first, except–

- (a) if the member was in pensionable employment for less than 12 months, “final year’s pensionable pay” means–

$$\frac{\textit{Pensionable pay}}{\textit{Number of days pensionable employment}} \times 365$$

- (b) if pensionable pay was greater in either or both of the two consecutive years immediately preceding the last year, “final year’s pensionable pay” means pensionable pay in respect of the year immediately preceding the last year or, if greater, pensionable pay in respect of the first of those two consecutive years.

(5B) If the pensionable pay of a member credited with any period of pensionable service under regulation N2 has exceeded the permitted maximum and either–

- (a) paragraph 20 of Schedule 6 to the Finance Act 1989(a) applied to the member without the modification made by regulation 5 of the Retirement Benefits Schemes (Continuation of Rights of Members of Approved Schemes) Regulations 1990(b) in respect of benefits derived from service under another scheme; or
- (b) any equivalent scheme provision applied to the member when that person was a member of the scheme from which the transfer was accepted,

that excess shall be ignored for the purposes of calculating the final year’s pensionable pay in respect of the period of pensionable service credited under regulation N2.”.

(5) For paragraph (6) substitute–

“(6) In this regulation, “permitted maximum” means–

- (a) in relation to any tax year before and including the tax year 2006-07, the figure specified for that tax year in an order made under section 590C of the Income and Corporation Taxes Act 1988; or
- (b) subject to paragraphs (7) and (8), £108,600.

(7) If the retail prices index for the month of September preceding the tax year 2007-08 or any later tax year is higher than it was for the previous September, the figure for that year shall be an amount arrived at by–

- (a) increasing the figure for the previous tax year by the same percentage as the percentage increase in the retail prices index; and

(a) 1989 c. 26.
(b) S.I. 1990/2101.

- (b) if the result is not a multiple of £600, rounding it up to the nearest amount which is such a multiple.

(8) If the retail prices index for the month of September preceding the tax year 2007-08 or the month of September preceding any later tax year is not higher than it was for the previous September, the figure for that year shall be the same as for the previous tax year.”.

7. Amendment of regulation C2—(1) Regulation C2 (meaning of pensionable service) is amended as follows.

(2) After paragraph (2)(f) insert—

“(g) in the case of a member who is not a special class officer, any period of pensionable service in excess of 40 years that relates to a period before—

- (i) the member’s 60th birthday; and
- (ii) 1st April 2008.”.

(3) For paragraph (4) substitute—

“(4) Subject to paragraph (2), the benefits described in these regulations will be calculated by reference to a maximum of—

- (a) 45 years’ pensionable service in the case of a member who is not a special class officer;
- (b) 45 years’ pensionable service (of which only 40 years may relate to the period before the member reaches age 55) in the case of a member who is a special class officer),

and if the member’s pensionable service exceeds these limits, the amount of the excess will be ignored.”.

8. For regulation C4(6) (pensionable service in respect of part-time employment) substitute—

“(6) If a member with pensionable service in part-time employment becomes entitled to a pension under regulation E2, E2A, E3 or E3A—

- (a) the member’s pensionable service in part-time employment will count at its full length for the purpose of calculating—
 - (i) whether and (if so) to what extent, the pensionable service upon which the pension under regulation E2 or E2A is based should be increased under that regulation; or
 - (ii) the qualifying service for the purposes of regulation E3(2)(a) or regulation E3A(2)(a); and
- (b) the pension will be based on the whole-time equivalent of the period of part-time employment and, in the case of a pension under regulation E2 or E2A, the increase under that regulation will be limited to such amount as bears the same proportion to the amount that would have been paid had the pensionable service not been part-time as the whole-time equivalent bears to comparable whole-time employment.”.

9. Amendment of regulation D1—(1) Regulation D1 is amended as follows.

(2) For paragraphs (1) and (2) substitute—

“(1) Each member in pensionable employment must contribute to the scheme as follows—

- (a) a member whose employment is by way of manual labour must contribute 5 percent of his pensionable pay in respect of that employment;
- (b) a member other than a manual worker whose pensionable pay falls into a pay band specified in column 1 of the following table must contribute the percentage of his pensionable pay specified in column 2 of that table in respect of that amount.

Table

<i>Column 1</i>	<i>Column 2</i>
<i>Pay band</i>	<i>Contribution percentage rate</i>
Up to £19,682	5%
£19,683 to £65,002	6.5%
£65,003 to £102,499	7.5%
£102,500 to any higher amount	8.5%

(2) The Scottish Ministers may make a determination substituting any or all of the pay bands or contribution percentage rates specified in paragraph (1) with effect from a date specified in the determination.

(2A) Before making a determination under paragraph (2), the Scottish Ministers must consider the advice of the scheme actuary and when specifying a rate, the Scottish Ministers may include the cost of providing any increases in pensions which are payable by virtue of Part I of the Pensions (Increase) Act 1971(a).

(2B) For the purposes of determining the relevant contribution rate–

- (i) paragraphs (2D) to (2M) apply; and
- (ii) the amount of pensionable earnings determined in accordance with those provisions shall be rounded down to the nearest whole pound.

(2C) For the purposes of paragraphs (2D) to (2M), the reference period means the 2007-2008 scheme year.

(2D) If a member–

- (a) was in pensionable employment with an employing authority continuously on a whole-time basis throughout the reference period; and
- (b) is employed by that authority on 1st April 2008,

the member shall pay contributions at the rate specified in Column 2 of the table in paragraph (1) in respect of the amount of pensionable pay referred to in Column 1 of that table which corresponds to the member's pensionable pay received during the reference period.

(2E) If a member–

- (a) was in pensionable employment with an employing authority continuously on a part-time basis throughout the reference period; and
- (b) is employed by that authority on 1st April 2008,

the amount of the member's pensionable pay shall be determined by reference to the amount the Scottish Ministers determine would have been paid in respect of a single comparable whole-time employment during the reference period.

(2F) If a member–

- (a) was in pensionable employment with an employing authority on a combination of a whole-time and part-time basis throughout the reference period; and
- (b) is employed by that authority on 1st April 2008,

the amount of the member's pensionable pay shall be the aggregate of the member's pensionable pay received during the reference period in respect of the member's whole-time employment and the amount the Scottish Ministers determine would have been paid in respect of a single comparable whole-time employment for that period in respect of the member's part-time employment.

(2G) If a member–

- (a) was in pensionable employment with two or more employing authorities on a part-time basis throughout the reference period; and
- (b) is employed by one or more employing authorities on 1st April 2008,

(a) []

each such employment shall be treated separately for the purpose of paying contributions and the amount of the member's pensionable pay for each such separate employment shall be the amount the Scottish Ministers determine would have been paid in respect of a single comparable whole-time employment during the reference period.

(2H) If a member–

- (a) commences pensionable employment with an employing authority on a whole-time basis during the reference period; and
- (b) is employed by that authority on 1st April 2008,

the amount of the member's pensionable pay shall be determined by the formula–

$$\frac{RPP}{NDPE} \times 365$$

where–

RPP is the pensionable pay received during the reference period; and

NDPE is the number of days of pensionable employment during the reference period.

(2I) If a member–

- (a) commences pensionable employment with an employing authority on a part-time basis during the reference period; and
- (b) is employed by that authority on 1st April 2008,

the amount of the member's pensionable pay shall be determined by the formula–

$$\frac{\textit{Deemed CWTE}}{NDPE} \times 365$$

where–

Deemed CWTE is the amount the Scottish Ministers determine would have been paid during the reference period in respect of a single comparable whole-time employment; and

NDPE is the number of days of pensionable employment during the reference period.

(2J) If a member–

- (a) commences pensionable employment with an employing authority during the reference period and has since been employed on both a whole-time and part-time basis; and
- (b) is employed by that authority on 1st April 2008,

the amount of the member's pensionable pay shall be determined by the formula–

$$\frac{(RPP + CWTE)}{NDPE} \times 365$$

where–

RPP is the pensionable pay received for the whole-time employment during the reference period;

CWTE is the amount the Scottish Ministers determine would have been paid in respect of a single comparable whole-time employment in respect of the member's part-time employment during the reference period; and

NDPE is the number of days of pensionable employment during the reference period.

(2K) If a member–

- (a) ceases to be in pensionable employment before 31st March 2007; and
- (b) returns to pensionable employment on a whole-time basis on, or after, 1st April 2008,

the amount of the member's pensionable pay shall be determined by the formula–

$$\frac{EPP}{NDPE} \times 365$$

where–

EPP is the estimated pensionable pay that the member's employing authority estimates will be payable to the member in respect of the scheme year 1st April 2008 to 31st March 2009; and

NDPE is the number of days of pensionable employment from the date employment commences to the end of that scheme year.

(2L)(a) If a member–

- (i) ceases to be in pensionable employment before 31st March 2007; and
- (ii) returns to pensionable employment on a part time basis on or after, 1st April 2008,

the Scottish Ministers shall determine the member's pensionable pay as set out in sub-paragraph (b);

(b) Scottish Ministers shall–

- (i) apply the formula–

$$\frac{EPP}{NDPE} \times 365$$

where–

EPP is the estimated pensionable pay that the member's employing authority estimates will be payable to the member in respect of the scheme year 1st April 2008 to 31st March 2009; and

NDPE is the number of days of pensionable employment from the date employment commences to the end of that scheme year; and

- (iii) determine how much would be paid in respect a whole-time comparable employment,

with the amount referred to in paragraph (ii) being the member's pensionable pay for the purposes of this regulation.

(2M) If paragraph (2L) applies and the member has more than one part time employment–

- (a) the determination referred to in that paragraph shall apply each such employment separately; and
- (b) each such employment shall be treated separately for the purpose of paying contributions.

(2N) If none of paragraphs (2D) to (2M) apply, for the purpose of determining a member's relevant contribution rate the Scottish Ministers must determine the amount of the member's pensionable pay to be attributed to the reference period and in doing so shall, in addition to the matters referred to in paragraph (2A), have regard to the pensionable pay attributable to pensionable employment comparable to the member's employment, prevailing pay scales and prevailing rates of pensionable allowances.”.

(3) In paragraph (4)–

- (a) for “70” substitute “75”; and
- (b) omit “and reaches age 65”.

10.Amendment of regulation E1 In regulation E1(3) (normal retirement pension), for “70” substitute “75”.

11.Amendment of regulation E2—(1) Regulation E2 (early retirement pension (ill-health)) is amended as follows.

(2) Before paragraph (1) insert–

“(A1) This regulation applies to a member who–

- (a) retires from pensionable employment on or after 1st April 2008 and submitted a claim together with supporting medical evidence pursuant to regulation T1 for benefits under this regulation which was received by the Scottish Ministers before 1st April 2008; or
- (b) returns to employment which attracts a pension in accordance with paragraph (11).”.

(3) In paragraph (1) after “A member” insert “to whom this regulation applies”.

(4) In paragraph (10)(b), after “reduction under regulation E8” insert “and the lump sum in place of part of pension payable under regulation E11”.

(5) After paragraph (12) insert–

“(13) For the purposes of calculating the amount of lump sum payable under paragraph (10), the member will be treated as if he had made an election under regulation E11 to receive the maximum amount of further lump sum payable under that regulation.”.

Insertion of new regulations E2A, E2B and E2C

12. After regulation E2 insert–

“ Ill health pension on early retirement

E2A.—(1) This regulation applies to a member who–

- (a) retires from pensionable employment on or after 1st April 2008;
- (b) did not submit a claim together with supporting medical evidence pursuant to regulation T1 for benefits under regulation E2 which was received by the Scottish Ministers before 1st April 2008; and
- (c) is not in receipt of a pension under regulation E2.

(2) A member to whom this regulation applies who retires from pensionable employment before normal benefit age shall be entitled to pension under this regulation if–

- (a) he has at least 2 years qualifying service or qualifies for a pension under regulation E1; and

(b) his employment is terminated because of physical or mental infirmity as a result of which he is–

- (i) permanently incapable of efficiently discharging the duties of that employment (the “lower tier condition”); or
- (ii) permanently incapable of any regular employment (the “upper tier condition”).

(3) Subject to paragraph (4), the lower tier pension upon satisfaction of the lower tier condition and the upper tier pension upon satisfaction of the upper tier condition, will be calculated as described in regulation E1.

(4) Subject to paragraphs (5) and (6), if the member meets the upper tier condition, the pensionable service on which the pension is based will be increased by two-thirds of the pensionable service the member could have completed had he stayed in pensionable employment until normal benefit age.

(5) If the member’s employment is terminated on or before 31st March 2016, the minimum amount by which his pensionable service will be increased under paragraph (4) will be the lesser of–

- (a) 4 years pensionable service; and
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until normal benefit age.

(6) To the extent that any increase under paragraph (4) or (5) would cause a member’s pensionable service to exceed the limit provided for in regulation C2(4), the amount of any excess will be reduced accordingly.

(7) Subject to paragraph (8), where a member becomes entitled to a pension under paragraph (2), the Scottish Ministers may discharge their liability for that pension by the payment of a lump sum of an amount consistent–

- (a) with the contracting-out and preservation requirements of the 1993 Act; and
- (b) the lump sum rule.

(8) A lump sum payment under paragraph (7) may be made only if the Scottish Ministers are satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member.

(9) For the purpose of paragraph (8), the Scottish Ministers may require whatever medical evidence that they consider necessary.

(10) The amount of the lump sum payable under paragraph (7)–

- (a) will be equal to 5 times the yearly rate of the member’s pension (calculated in accordance with this regulation); and
- (b) shall be payable in addition to the lump sum on retirement payable under regulation E7 (which shall not be subject to any reduction under regulation E8) and the lump sum in place of part of pension payable under regulation E11.

(11) The employment of a member to whom a pension is payable under this regulation may be pensionable under the scheme if he is under age 50–

- (a) on the date he returns to NHS employment if he became entitled to receive a pension under a lower tier condition on the day he retired from pensionable employment; or
- (b) on the day after the protection period in regulation E2C(6)(b) ends if he became entitled to receive a pension under an upper tier condition on the day he retired from pensionable employment.

(12) For the purposes of calculating the amount of lump sum payable under paragraph (10), the member will be treated as if he had made an election under regulation E11 to receive the maximum amount of a further lump sum payable under that regulation.

Re-assessment of ill-health condition determined under regulation E2A

E2B.—(1) This regulation applies to a member in receipt of a lower tier pension under regulation E2A.

(2) A member to whom this regulation applies may ask the Scottish Ministers to consider whether he subsequently meets the upper tier condition if—

- (a) by notice in writing at the time of award of the pension, the Scottish Ministers informed the member that the decision to award a pension on the basis of the lower tier condition and not the upper tier condition may be reviewed at a future date;
- (b) within three years of the date of issue of such notice, the member provides further medical evidence to the Scottish Ministers;
- (c) that further medical evidence relates to the same physical or mental infirmity that qualified the member for his lower tier pension; and
- (d) the member has not entered into further NHS employment at any time since becoming entitled to a lower tier pension.

(3) If, after considering the further medical evidence provided by a member under this regulation, the Scottish Ministers determine that the member satisfies the upper tier condition, Scottish Ministers shall pay from the date of that determination an upper tier pension under regulation E2A(2) in place of the lower tier pension being paid to that member.

Further employment after a benefit is paid under regulation E2A

E2C.—(1) This regulation applies to a member who—

- (a) is in receipt of an upper tier pension under regulation E2A (“the original pension”); and
- (b) enters into further employment.

(2) Such a member shall be paid a lower tier pension (“a substitute pension”) in place of the original pension—

- (a) from the next substitute pension payment date following the day on which his annual earnings from further employment (whether in the NHS or otherwise) in any tax year exceed the lower earnings limit for national insurance contributions applicable to that year; or
- (b) in the case of a member who enters into further NHS employment, from the next substitute pension payment date following the first day on which he is so employed which falls after the anniversary of his entry into the further NHS employment (whether or not that day is part of a continuous period of further NHS employment beginning with his entry into that employment),

if sooner.

(3) A member who is in receipt of a substitute pension may ask the Scottish Ministers to consider reinstating the original pension if—

- (a) he is under normal benefit age; and
- (b) he makes such a request in writing and provides supporting medical evidence to the Scottish Ministers before the end of the protection period; and
- (c) his further employment is terminated before the end of the protection period.

(4) If, after considering evidence provided in terms of paragraph (3)(b), the Scottish Ministers determine that the member again satisfies an upper tier condition in respect of his earlier employment, the Scottish Ministers shall recommence paying, from the day after the date that the further employment is terminated, the original pension in place of the substitute pension.

(5) A member to whom this regulation applies who is in receipt of an upper tier pension must–

- (a) notify the Scottish Ministers immediately and in writing if either of the following apply–
 - (i) his annual earnings in any tax year exceed the lower earnings limit for national insurance contributions applicable to that year; or
 - (ii) he is engaged in further NHS employment after the end of the protection period in paragraph (6)(b); and
- (b) provide any other information in connection with his earnings or further employment requested by the scheme administrator or any other person that the Scottish Ministers may specify.

(6) In this regulation “the protection period” means–

- (a) a period of one year beginning with the day on which the member’s annual earnings from further employment that is not NHS employment first exceed the lower earnings limit for national insurance contributions applicable to that year; or
- (b) a period of one year beginning with the first day the member enters into further NHS employment.”.

13.Amendment of regulation E3 After regulation E3(1)(a)(ii) (early retirement pension (redundancy etc.)) insert–

“(iia) returns to pensionable employment on or after that date that attracts a pension in accordance with regulation E2(11) or E2A(11);”.

14.Omission of regulation E4 Regulation E4 (early retirement pension (employer’s consent) is omitted.

15.Amendment of regulation E6 For regulation E6(4) (preserved pension) substitute–

“(4) Except in a case to which paragraph (4A) applies–

- (a) if the member is in NHS employment at the relevant time (whether with the same or another employing authority), the pension and lump sum on retirement will not become payable until the member leaves NHS employment or, if sooner–
 - (i) when he attains the age of 70, if he attains that age on or before 31st March 2008; or
 - (ii) when he attains the age of 75, if he attains the age of 70 on or after 1st April 2008;
- (b) the relevant time–
 - (i) in the case of a member to whom sub-paragraph (d) of paragraph (3) applies, is when he makes the application referred to in head (iii) of that sub-paragraph; or
 - (ii) in any other case, when he attains the age of 60.”.

16.Amendment of regulation E9 For regulation E9(3) (early leaver’s entitlement to refund of contributions) substitute–

“(3) If the member’s employment was contracted-out by reference to the scheme, the member (and the member’s spouse or civil partner, if any) will remain entitled to a guaranteed minimum pension and section 9(2B) rights under the scheme, unless the Scottish Ministers discharge their liability in respect of that entitlement by paying a contributions equivalent premium under section 55(2) of the 1993 Act.”.

Insertion of new regulation E11

17. After regulation E10 (payment of interest with refund of contributions) insert–

“ General option to exchange part of pension for lump sum

E11.—(1) This regulation applies to a member who is in pensionable employment on or after 1st April 2008.

(2) A member may opt to exchange part of a pension to which the member would otherwise be entitled for a lump sum, which must be an evenly divisible multiple of £12.

(3) If a member so opts, for every £1 by which the member’s annual pension is reduced, the member is to be paid a lump sum of £12.

(4) A member may not exchange pension for lump sum under this regulation to the extent that it would result in a scheme chargeable payment for the purposes of Part 4 of the 2004 Act^(a).

(5) If the member has a guaranteed minimum under section 14 of the 1993 Act in relation to the whole or part of a pension, paragraph (2) only applies to so much of the pension as exceeds that guaranteed minimum, multiplied by such factor as is indicated for a person of the member’s description in tables provided by the scheme actuary.

(6) The option under this regulation may only be exercised by giving notice in writing to the scheme administrator in the form required by the Scottish Ministers—

- (a) at the time of claiming the pension; or
- (b) before a later time specified in writing by the scheme administrator.”.

Amendment of regulation F1

18. In regulation F1(1) (lump sum when member dies in pensionable employment), for “70” substitute “75”.

19. Amendment of regulation F2 After regulation F2(5) (lump sum when member dies after pension becomes payable) insert—

“(6) If a member who was in receipt of a substitute lower tier pension under regulation E2C dies before the end of the protection period that applies to him under regulation E2C(6)(a) or (b), the member’s pension referred to in paragraph (2) means that member’s original upper tier pension.”.

20. New regulation F5 For regulation F5 (payment of lump sum) substitute—

“Payment of lump sum

F5.—(1) A lump sum under any of regulations F1 to F4 shall be paid in accordance with the following paragraphs.

(2) If a member dies without leaving a surviving partner and without having made a nomination in favour of another person, the lump sum shall be paid to the member’s personal representatives.

(3) If a member dies leaving a surviving partner and without having made a nomination in favour of another person, the lump sum shall be paid to that surviving partner unless—

- (a) the member has given notice to the Scottish Ministers that the surviving partner is not to receive the payment and has not revoked that notice;
- (b) the surviving partner has been convicted of an offence specified in regulation T6(1A) and the Scottish Ministers have directed, as a consequence of that conviction, that the surviving partner’s right to payment in respect of the member’s death shall be forfeited; or
- (c) payment to the surviving partner is not, in the opinion of the Scottish Ministers, reasonably practicable,

in which case the lump sum shall be paid to the member’s personal representatives.

(a) See, in particular, section 241 of, and paragraph 1 of Schedule 29 to, that Act.

(4) If a member dies having made a nomination in favour of one person (whether or not he also leaves a surviving partner), the lump sum shall be paid to that nominee unless–

- (a) the member has given notice to the Scottish Ministers revoking that nomination; or
- (b) the nominee has died before the payment could be made; or
- (c) the nominee has been convicted of an offence specified in regulation T6(1A) and the Scottish Ministers have directed, as a consequence of that conviction, that his right to payment in respect of the member’s death shall be forfeited; or
- (d) payment to the nominee is not, in the opinion of the Scottish Ministers, reasonably practicable,

in which case the lump sum shall be paid to the member’s personal representatives.

(5) If a member dies having made a nomination in favour of two or more persons (whether or not he also leaves a surviving partner) and has not given notice to the Scottish Ministers revoking that notice, the lump sum shall be paid to those nominees, unless–

- (a) one or more of those nominees has–
 - (i) died before the payment could be made; or
 - (ii) been convicted of an offence specified in regulation T6(1A) and the Scottish Ministers have directed, as a consequence of that conviction, that his or their right to payment in respect of the member’s death shall be forfeited; or
- (b) the Scottish Ministers are of the opinion that payment to one or more of the nominees is not reasonably practicable,

in which case the percentage of the lump sum due to that nominee, or as the case may be, those nominees shall be paid to the member’s personal representatives.

(6) A nomination may only be made by a member–

- (a) who is in pensionable employment in the scheme at the time of making the nomination; or
- (b) whose pensionable employment in the scheme ceased on, or after, 1st April 2008.

(7) A nomination shall specify one or more persons who may be–

- (a) an individual;
- (b) a body corporate;
- (c) an unincorporated body; or
- (d) the member’s personal representatives,

but is not entitled to specify one or more persons referred to in subparagraph (a) together with a body referred to in either of subparagraphs (b) or (c).

(8) A nomination or notice referred to in this regulation is only valid–

- (a) if addressed to the Scottish Ministers;
- (b) upon receipt by the Scottish Ministers;
- (c) if made (or revoked) in writing; and
- (d) in the case of a nomination specifying more than one individual, if it also specifies the percentage of the lump sum to be paid to each such individual.

(9) A member who has any pensionable employment in the scheme on or after 1st April 2008 cannot give a notice referred to in paragraph (3)(a).

(10) If the lump sum on death does not exceed the specified amount, the Scottish Ministers may pay it to any person claiming to be the member’s personal representative or to be entitled to a share of it, without requiring proof of the title of the person concerned.

(11) In paragraph (10), the specified amount means £5,000 or any higher amount specified in an order made under section 6(1) of the Administration of Estates (Small

Payments) Act 1965(a) as the amount to be treated as substituted for references to £500 in section 1 of that Act.

(12) In this regulation “surviving partner” means a–

- (a) widow;
- (b) widower;
- (c) civil partner; or
- (d) nominated partner,

who survives the member.”.

Substitution of heading to Part G

21. For the heading to Part G substitute–

“SURVIVING PARTNER PENSIONS”.

22. Amendment of regulation G1 After regulation G1(1) (widow’s pension) insert–

“(1A) Paragraphs (2) to (7) apply if a member’s pensionable employment ceases before 1st April 2008.”.

Amendment of regulation G2

23.—(1) Regulation G2 (widow’s pension when member dies in pensionable employment) is amended as follows.

(2) In paragraph (1) for “70” substitute “75”.

(3) After paragraph (3) insert–

“(3A) Paragraphs (3B) to (5) apply if a member dies on or after 1st April 2008.

(3B) The widow’s pension for the first 6 months after the member’s death will be equal to the rate of the member’s pensionable pay when he died if that amount is greater than the amount of widow’s pension that would otherwise be payable under these Regulations.

(3C) Except while the widow’s pension is payable at the rate mentioned in paragraph (3B), if the member dies with 2 years or more qualifying service, the widow’s pension will be equal to one-half of the pension to which the member would have been entitled if, on the date of death, the member had become entitled to an upper tier pension under regulation E2A.”.

(4) In paragraphs (4) and (5), after “paragraph (2)” insert “or (3B)”.

Amendment of regulation G3

24. After regulation G3(4) (widow’s pension when member dies after pension becomes payable) insert–

“(5) If a member who was in receipt of a substitute lower tier pension under regulation E2C dies before the end of the protection period that applies to him under regulation E2C(6)(a) or (b), the member’s pension referred to in paragraph (2) means that member’s original upper tier pension.”.

Amendment of regulation G4

25. For regulation G4(2) widow’s pension when member dies with preserved pension) substitute–

“(2) If the member leaves pensionable employment before 1st April 2008 and dies within 12 months after leaving, the widow’s pension will be equal to one-half of the pension that

(a) 1965 c. 32

would have been payable to the member under the scheme if the member had retired through ill-health with a pension under regulation E2 on the day he left pensionable employment.

(2A) If the member leaves pensionable employment on or after 1st April 2008 and dies within 12 months after leaving, the widow's pension will be equal to one-half of the pension that would have been payable to the member under the scheme if the member had retired through ill-health with an upper tier pension under regulation E2A on the day he left pensionable employment.”.

Amendment of regulation G7

26. For regulation G7(4) (widower's pension) substitute–

“(4) If regulation G2(3), G2(3C), G4(2) or G4(2A) applies to the calculation of the widower's pension on a member's death in pensionable employment or with a preserved pension–

- (a) the whole of the member's pensionable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation E2(3) or E2A(4), in the pensionable service on which the member's pension under regulation E2 or E2A would have been based; and
- (b) the whole period (if any) by which the member's pension would have been increased will be treated as pensionable service after 5th April 1988.”.

Amendment of regulation G9

27.—(1) Regulation G9 (Increased widower's pension) is amended as follows.

(2) After paragraph (4) insert–

“(5) If a female member who has made an election under this regulation–

- (a) is in pensionable employment on 1st April 2008, or returns to such employment after that date; and
- (b) dies without leaving a widower but leaving a surviving civil partner or, as the case may be, a surviving nominated partner,

the widower's pension described in paragraph (1) shall be paid to that surviving partner.”.

Amendment of regulation G10

28. For regulation G10(4) (surviving civil partner's pension) substitute–

“(4) If regulation G2(3), G2(3C), G4(2) or G4(2A) applies to the calculation of the surviving civil partner's pension on a member's death in pensionable employment or with a preserved pension–

- (a) the whole of the member's pensionable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation E2(3) or E2A(4), in the pensionable service on which the member's pension under regulation E2 or E2A would have been based; and
- (b) the whole period (if any) by which the member's pension would have been increased will be treated as pensionable service after 5th April 1988.”.

Amendment of regulation G11

29. In regulation G11(6) (dependent surviving civil partner's pension), after “regulation E2(10)” insert “, regulation E2A(10)”.

Amendment of regulation G13

- 30.**—(1) Regulation G13 (increased surviving civil partner’s pension) is amended as follows.
- (2) In paragraph (3), after “regulation E2(10)” insert “, regulation E2A(10)”.
- (3) After paragraph (5) insert—
- “(6) If a member who has made an election under this regulation—
- (a) is in pensionable employment on 1st April 2008, or returns to such employment after that date; and
 - (b) dies without leaving a civil partner but leaving a surviving widower or, as the case may be, a surviving nominated partner,
- the surviving civil partner’s pension described in paragraph (1) shall be paid to that surviving widower, or as the case may be, that surviving nominated partner.”.

Insertion of new regulations G14 to G17

- 31.** After regulation G13 insert—

“Surviving nominated partner’s pension

G14.—(1) A member may, by giving notice in writing to the Scottish Ministers, nominate a person (“the nominated partner”) to receive a surviving nominated partner pension on his death.

- (2) The Scottish Ministers must accept a member’s nomination if—
- (a) the member and the nominated partner have jointly made and signed a declaration in the form required by the Scottish Ministers that remains effective at the member’s death; and
 - (b) the nominated partner satisfies the Scottish Ministers that for a continuous period of at least two years ending with the member’s death—
 - (i) the member and the nominated partner were living together as if they were husband and wife or civil partners;
 - (ii) the member and the nominated partner were not prevented from marrying or entering into a civil partnership;
 - (iii) the member and the nominated partner were financially interdependent or the nominated partner was financially dependent on the member; or
 - (iv) neither the member nor the nominated partner was living with a third person as if they were husband and wife or as if they were civil partners.
- (3) A declaration under paragraph (2)(a) ceases to have effect if—
- (a) it is revoked by the member or the nominated partner by a signed notice in writing given to the Scottish Ministers in the required form (if any);
 - (b) the member makes a later declaration under paragraph (2)(a); or
 - (c) the member or the nominated partner marries or enters into a civil partnership.
- (4) If the Scottish Ministers have accepted a member’s nomination and the member subsequently dies before his nominated partner in the circumstances described in any of regulations G2 to G6, the nominated partner is entitled to a pension as described in paragraphs (6) to (10) of this regulation.
- (5) Subject to paragraph (6), regulations G1 to G6 apply to the calculation and payment of pensions for nominated partners in the same manner as they apply to pensions for widows.
- (6) When calculating a nominated partner’s pension, any part of the member’s benefit that is based on pensionable service before 6th April 1988 will, subject to paragraphs (7) and (8), be disregarded.

(7) If regulation G2(3) or (3C) or regulation G4(2) or (2A) apply to the calculation of the nominated partner's pension on a member's death in pensionable employment or with a preserved pension—

- (a) the whole of the member's pensionable service will be taken into account when calculating whether and (if so) to what extent there would have been an increase, by virtue of regulation E2(3) or E2A(4) in the pensionable service on which the member's pension under regulation E2 or E2A would have been based; and
- (b) the whole period (if any) by which the member's pension would have been increased will be treated as pensionable service after 5th April 1988.

(8) If regulation G3(2) applies to the calculation of the nominated partner's pension, so that the nominated partner's pension is equal to the member's pension for a limited period, the nominated partner's pension for that limited period will be equal to the whole of the member's pension (including any part of the member's pension that is based on pensionable service before 6th April 1988).

(9) Any reference in these Regulations to regulations G1 to G6 means, in relation to benefits in respect of a member who has nominated a partner, those regulations as applicable to the member's nominated partner (if any).

Dependent surviving nominated-partner's pension

G15.—(1) A member may, by giving notice in writing to the Scottish Ministers before leaving pensionable employment, apply for his nominated partner to receive a dependent surviving nominated partner's pension on the member's death.

(2) The Scottish Ministers must accept a member's application only if they are satisfied that the member's nominated partner is—

- (a) permanently incapable of earning a living because of physical or mental infirmity; and
- (b) wholly or mainly dependent on the member.

(3) If the Scottish Ministers have accepted a member's application and the member subsequently dies before his nominated partner, the dependent surviving nominated partner is entitled to a dependent surviving nominated partner's pension.

(4) The dependent surviving nominated partner's pension is to be calculated in the same way as a widow's pension under regulations G1 to G6 but based only on the member's pensionable service before 6th April 1988.

(5) If the Scottish Ministers have accepted a member's application for a dependent surviving nominated partner's pension and the member's pensionable service started before 6th April 1988 any lump sum payable to the member will be reduced by an amount equal to 1.4 times the yearly rate of the part of the member's pension that is based on pensionable service before 6th April 1988 (except to the extent that any reduction has been off-set under regulation Q2).

(6) If regulation E2(10), regulation E2A(10) or regulation E6(8) applies to a member who has a nominated partner, any reference in those provisions to a lump sum payable on retirement means, in relation to a member to whom paragraph (5) of this regulation refers, a lump sum that is not reduced as described in that paragraph.

Purchase of surviving partner's pension in respect of service before 6th April 1988

G16.—(1) Subject to this regulation, an officer in respect of whom a pension has not already become payable under regulation E2 or E2A may, in respect of the whole or any part of his contributing service before 6th April 1988, elect to purchase an increase in the amount of any survivor's pension that becomes payable under the scheme.

(2) The purchase of an increase under paragraph (1) may be made only in respect of complete years of service, unless the officer wishes to purchase an increase in respect of all

of his service before 6th April 1988, in which case the whole of the requisite period may be purchased whether or not it constitutes a multiple of complete years of service.

(3) An election under paragraph (1)–

- (a) must be made within the period of 15 months beginning with the date on which these Regulations come into force;
- (b) must be made by notice in writing, given to the Scottish Ministers;
- (c) must specify the period in respect of which the election is made;
- (d) must be accompanied by a declaration in writing signed by the officer that he is of sound health for his age; and
- (e) is irrevocable.

(4) Each figure in tables 2 and 4 of Schedule 1 is multiplied by a factor of 0.7 in respect of the cost of providing the increase provided under paragraph (1).

(5) In this regulation “survivor’s pension” means a pension that becomes payable by virtue of–

- (a) regulation G7; or
- (b) regulation G10; or
- (c) regulation G14.

Increased surviving partner’s pension

G17.—(1) If a member elects on or before the date determined in accordance with regulation G16(3)(a) to buy an increased surviving partner’s pension under regulation G16(1), any survivor’s pension that becomes payable in respect of that member will be based on pensionable service after 5th April 1988 plus any period of pensionable service before that date that the member elected to buy for this purpose under regulation G16(1).

(2) Any survivor’s pension payable in respect of the member shall be paid to (as the case may be) the member’s surviving widower, civil partner or nominated partner regardless of whether that pension is payable by virtue of regulation G7, regulation G10 or regulation G14.

(3) Subject to paragraph (4), any retirement lump sum payable to a member under regulation E7, in respect of any period of pensionable service that the member elected to buy as described in paragraph (1), will be reduced by 1.4 times the yearly rate of the member’s pension plus the relevant daily proportion of that rate for each additional day (except to the extent that any lump sum reduction has been off-set under regulation Q2).

(4) If regulation E2(10), regulation E2A(10) or regulation E6(8) applies to a member to whom this regulation refers, any reference in those regulations to a lump sum payable on retirement must be taken to mean a lump sum that is not reduced as described in paragraph (2) of this regulation.

(5) Subject to paragraph (6) if, by virtue of an election under regulation G16(1), the amount of the retirement lump sum would fall to be reduced by 1.4 times the yearly rate of a member’s pension plus the relevant daily proportion of that rate for each additional day, he may make an election to purchase an unreduced lump sum under regulation Q2 provided that the election is made no later than the date determined in accordance with regulation G16(3)(a).

(6) A member who has purchased additional service in accordance with regulation Q1 by way of a payment under regulation Q6 is not entitled to make an election under paragraph (4) in respect of the purchase of an unreduced lump sum.”.

Amendment to regulation H1

32.—(1) Regulation H1 (dependent child) is amended as follows.

(2) In paragraph (1)–

(a) in subparagraph (c), for “or civil partner” substitute “, civil partner or nominated partner”;
and

(b) after subparagraph (d) insert–

“(e) a child of a member’s nominated partner from a nominated partnership formed before the date on which the member leaves pensionable employment.”.

(3) After paragraph (2) insert–

“(2A) A child is a dependent child of a person whose pensionable employment ceases on or after 1st April 2008 for so long as he is–

(a) under age 23; or

(b) aged 23 or over and incapable of earning a living because of permanent physical or mental infirmity from which he was suffering at the time the member died.”.

(4) In paragraph (3), for “A child is a dependent child” substitute “Subject to paragraphs (6) and (7), a child is a dependent child of a person whose pensionable employment ceases on or before 31st March 2008”.

Amendment of regulation H3

33.—(1) Regulation H3 (child allowance when member dies in pensionable employment) is amended as follows.

(2) For paragraph (2) substitute–

“(2) The allowance will be calculated, as described in whichever of paragraphs (4) or (7) apply–

(a) as a proportion of the pension that would have been payable to the member under the scheme if the member retired through ill-health and had qualified for an upper tier pension under regulation E2A on the day he died; or

(b) if greater, the amount that the member’s pension would have been if it had been based on 10 years pensionable service.”.

(3) Paragraph (3) is omitted.

(4) In paragraph (4), for “or civil partner” substitute “, civil partner or nominated partner”.

(5) For paragraphs (5) and (6) substitute–

“(5) If a widow’s, widower’s, surviving civil partner’s or nominated partner’s pension is payable at the rate mentioned in regulation G2(3B), the allowance payable in respect of any dependent child who is dependent on that widow, widower, surviving civil partner or surviving nominated partner will be payable from the day following the member’s death.

(6) If a widow’s, widower’s, surviving civil partner’s or nominated partner’s pension is payable at the rate mentioned in regulation G2(3B) but there is a dependent child who is not dependent on that widow, widower, surviving civil partner or surviving nominated partner, the allowance in respect of that child for the first three months after the member’s death will be equal to the rate of the member’s pensionable pay when he died.”.

(6) In paragraphs (7) and (8), for “or civil partner” insert “, civil partner or nominated partner”.

(7) In paragraph (8) for “or surviving civil partner’s” substitute “, surviving civil partner’s or surviving nominated partner.”.

Amendment of regulation H4

34.—(1) Regulation H4 (child allowance when member dies after pension becomes payable) is amended as follows.

(2) For paragraph (2) substitute–

(a)

“(2) Subject to paragraphs (2A) and (8), the allowance will be calculated, as described in whichever of paragraphs (3) or (4) apply, as a proportion of the amount of the member’s pension or, if greater, the amount that the member’s pension would have been if it had been based on 10 years pensionable service.

(2A) If the member’s pensionable employment ceased on or before 31st March 2008, the allowance will be calculated in whichever of paragraphs (3) or (4) apply, as a proportion of the amount of the member’s pension or, if greater, the amount that the member’s pension would have been if it had been based on the shorter of–

- (a) 10 years pensionable service; and
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until age 65.”.

(3) In paragraph (3), for “or civil partner” substitute “, civil partner or nominated partner”.

(4) After paragraph (8) insert–

“(9) If a member who was in receipt of a substitute lower tier pension under regulation E2C dies before the end of the protection period that applies to him under regulation E2C(7)(a) or (b), the member’s pension referred to in paragraph (2) means that member’s original upper tier pension.”.

Amendment of regulation H5

35.—(1) Regulation H5 (child allowance when member dies with preserved pension) is amended as follows.

(2) In paragraph (2)–

- (a) for “If the member dies” substitute “Subject to paragraph (2A), if the member dies”; and
- (b) omit “and, where applicable, H3(3)”.

(3) After paragraph (2) insert–

“(2A) Subject to paragraph (2B) if the member’s pensionable employment ceased on or before 31st March 2008 the allowance will be calculated, as described in whichever of paragraphs (4) or (5) apply, as a proportion of the pension that would have been payable to the member under the scheme if the member retired through ill-health with a pension under regulation E2 on the day he died.

(2B) If the member has less than 5 years’ pensionable service, the allowance will be calculated as if the pension described in paragraph (2A) were based on the shorter of–

- (a) 10 years’ pensionable service; and
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until age 65.”.

(4) For paragraph (3) substitute–

“(3) Subject to paragraph (3A), if the member dies 12 months or more after leaving pensionable employment, the allowance will be calculated as described in whichever of paragraphs (4) or (5) apply, as a proportion of the amount of the member’s preserved pension or, if greater, the amount that the preserved pension would have been if it had been based on 10 years pensionable service.

(3A) If the member’s pensionable employment ceased on or before 31st March 2008, the allowance will be calculated as described in whichever of paragraphs (4) or (5) apply, as a proportion of the amount of the member’s preserved pension or, if greater, the amount of that the preserved pension would have been if it has been based on the shorter of–

- (a) 10 years pensionable service; and
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until age 65.”.

(5) In paragraphs (4) and (5)–

- (a) for “or civil partner” substitute “, civil partner or nominated partner”; and
 - (b) for “paragraph (2)” substitute “paragraphs (2) to (3A).
- (6) In paragraph (6)–
- (a) for “or civil partner” substitute “, civil partner or nominated partner”;
 - (b) for “or surviving civil partner’s” substitute “, surviving civil partner’s or surviving nominated partner’s”.

Amendment of regulation H7

36.—(1) In the heading to regulation H7 (increase of child allowance when child not dependant on surviving parent or spouse or civil partner of a parent), for “or civil partner” substitute “, civil partner or nominated partner”.

(2) In regulation H7, after “civil partner” (where three times occurring) insert “or nominated partner”.

Amendment of regulation J1

37. For regulation J1(4)(b) (allocation of pension) substitute–

“(b) if in pensionable employment–

- (i) in the case of a member who is not a special class officer, at any time after completing 45 years pensionable service; or
- (ii) in the case of a member who is a special class officer, at any time after reaching age 55 and completing 40 years pensionable service; or”.

New regulation K1

38. For regulation K1 (contracting-out conditions to be overriding) substitute–

“Contracting-out conditions to be overriding

K1.—(1) The scheme will be administered in conformity with the contracting-out conditions and, with the exception of the circumstances specified in paragraph (2), regulations K2 to K7 override any inconsistent provisions of these regulations.

(2) The circumstances referred to in paragraph (1) are–

- (a) if a trivial pension is commuted in accordance with regulation T7;
- (b) if a pension is commuted in accordance with regulations E2(10), E2A(10) or E6(5); or
- (c) if a pension is forfeited for the reasons specified in regulation T6(1)(b) or (c).

(3) In this Part–

- (a) “contracting-out conditions” means the conditions specified in sections 9(2A) and 9(2B) of the 1993 Act;
- (b) “guaranteed minimum” means the guaranteed minimum as defined in sections 13 to 17 of the 1993 Act;
- (c) “guaranteed minimum pension” is a pension calculated in accordance with the guaranteed minimum requirements; and
- (d) “protected rights” has the same meaning as in the 1993 Act.”.

Amendment of regulation K2

39.—(1) Regulation K2 (guaranteed minimum pensions) is amended as follows.

(2) In paragraph (1), for “section 14 of the Pension Schemes Act 1993 (earner’s guaranteed minimum)” substitute “section 13 of the 1993 Act”.

(3) In paragraphs (4), (4A) and (5), for “tax year 1988-89 and subsequent tax years” substitute “tax years 1988-89 to 1996-97 inclusive”.

(4) For paragraph (6) substitute–

“(6) A member who on leaving pensionable employment–

(a) becomes entitled to a refund of contributions under regulation E9; or

(b) exercises a right to require a transfer or buy-out in accordance with regulation M2,

but, in either case, remains (as described in regulation E9(2)) entitled to a guaranteed minimum pension or section 9(2B) rights, shall be entitled to the benefits specified in paragraph (7).

(6A?) The benefits are–

(a) a pension payable from the date on which he reaches state pension age at a weekly rate equal to his guaranteed minimum (if any); and

(b) a pension and lump sum from the date he reaches normal benefit age in respect of his section 9(2B) rights.

(6B?) On the death of a member to whom paragraph (6) applies, no benefit will be payable except for a widow’s, widower’s, surviving civil partner’s or nominated partner’s pension equal to the aggregate of–

(a) that described in paragraph (3) or, as the case may be, paragraph (4); and

(b) half the member’s pension in respect of section 9(2B) rights.”.

Amendment of regulation L1

40. In regulation L1(3)(b) (treatment of pensionable service of early leavers returning to pensionable employment of regulation), after “(early retirement pension on grounds of ill-health)” insert “or E2A (ill-health pension on early retirement)”.

Replacement of Regulations M1 to M4

41. For regulations M1 to M5 substitute–

“Member’s right to transfer or buy-out

M1.—(1) A member who leaves pensionable employment with a preserved pension has the right to require the Scottish Ministers to transfer or buy-out his rights under the scheme as described in this regulation.

(2) Subject to the following provisions of this regulation, the member may require the Scottish Ministers to use the cash equivalent of his rights under the scheme–

(a) to purchase one or more buy-out policies from one or more insurance companies chosen by the member; or

(b) to acquire rights under–

(i) another occupational pension scheme; or

(ii) a personal pension scheme,

that satisfies the requirements of Chapter IV of Part IV of the 1993 Act;

(c) to acquire rights under an arrangement that is a qualifying recognised overseas pension scheme for the purposes of section 169(2) of the 2004 Act; or

(d) in any combination of the ways described in sub-paragraphs (a), (b) and (c).

(3) The member must exercise his right under paragraph (1) in relation to each and every portion of the cash equivalent unless paragraph (4) applies.

(4) The benefits attributable to–

- (a) the member's accrued rights to a guaranteed minimum pension; or
- (b) the member's accrued rights attributable to service in contracted-out employment on or after 6th April 1997,

may be excluded from the cash equivalent transfer value payment if section 96(2) of the 1993 Act applies (trustees or managers of certain receiving schemes or arrangements able and willing to accept a transfer payment only in respect of the member's other rights).

(5) A member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme may exercise the right–

- (a) at any time before reaching age 60; or
- (b) at a later time if the member exercises the right to require a transfer on the transfer of his employment to a new employer as a result of a transfer of an undertaking to that employer.

(6) Subject to paragraph (7), a member who requires all or part of the cash equivalent to be used to purchase one or more buy-out policies or to acquire rights under a personal pension scheme may exercise the right at any time before reaching age 59.

(7) A member who leaves pensionable employment less than 6 months before his 59th birthday may exercise the right at any time up to 6 months after leaving.

(8) A member may require the Scottish Ministers to use the cash equivalent of his rights under the scheme to purchase one or more buy-out policies or to acquire rights under a personal pension scheme only–

- (a) if the member leaves pensionable employment on or after 1st January 1986; and
- (b) if those rights are to be transferred to a personal pension scheme, in relation to any period of service of 2 years or more falling before 6th April 1988, only if a period of not less than one month has elapsed between the date the member left NHS employment and the date of commencement of any further NHS employment.

(9) Subject to paragraph (10), a member who requires all or part of the cash equivalent to acquire rights under a qualifying recognised overseas pension scheme may exercise the rights at any time before reaching age 59.

(10) A member who leaves pensionable employment less than 6 months before his 59th birthday may exercise the right at any time up to 6 months after leaving.

(11) If a member–

- (a) leaves pensionable employment by opting-out;
- (b) on so doing becomes entitled to a preserved pension under regulation E6; and
- (c) has at least 2 years' service before 6th April 1988,

the member's right to require a transfer or buy-out will be limited to the cash equivalent of the part of his rights that is attributable to service after 5th April 1988 and the member will acquire a right to the cash equivalent of his remaining rights only if he actually leaves NHS employment before reaching age 60.

(12) A member who leaves pensionable employment before reaching age 60, without becoming entitled to a pension under any of regulations E1 to E5 or a preserved pension under regulation E6 will be treated, for the purposes of regulations M1 to M5, as if he had left pensionable employment with a preserved pension, except that–

- (a) a member who requires the cash equivalent to be used to buy one or more buy-out policies must exercise the right to buy-out within 12 months after leaving pensionable employment; and
- (b) a member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme, a personal pension scheme or a qualifying

recognised overseas pension scheme must join that other scheme within 12 months after leaving pensionable employment and exercise the right to transfer within 12 months after joining that other scheme.

Exercising a right to a transfer or a buy out

M2.—(1) A member who wishes to exercise his right to a transfer or a buy out must apply in writing to the Scottish Ministers for a statement of the amount of the cash equivalent of the member's accrued benefits under the Scheme at the guarantee date (a "statement of entitlement").

(2) In these Regulations, "the guarantee date" means any date that—

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

(3) In counting the period of 10 days referred to in paragraph (2)(d), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(4) In paragraph (2) "the required period" means—

- (a) the period of 3 months beginning with the date of the member's application for a statement of entitlement; or
- (b) such longer period beginning with that date (but not exceeding six months) as may reasonably be 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.

(5) The member may withdraw the application for a statement of entitlement by notice in writing at any time before the statement is provided.

(6) A member who—

- (a) has made an application for a statement of entitlement under this regulation; and
- (b) has not withdrawn it,

may make only one other such application in the period of 12 months beginning with the date of the first application.

Amount of member's cash equivalent

M3.—(1) Subject to the following provisions of this regulation, the member's guaranteed cash equivalent will be equal to the capitalised value of all the member's accrued rights to benefits under the scheme and any associated rights under Part I of the Pensions (Increase) Act 1971, calculated and verified as required by Chapter IV of Part IV of the 1993 Act.

(2) Except in the case of a transfer payment accepted under regulation N3A, 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(4), plus the amount of the member's contributions to the scheme.

(3) If a member's cash equivalent is used to acquire rights under another occupational pension scheme, any part of the cash equivalent that relates to service before 29th January 1988 will be calculated as described in the previous Regulations as applicable immediately before that date, if this would be more favourable to the member.

(4) If the transfer value payment is made under the public sector transfer arrangements, the amount of the transfer value payment is calculated—

- (a) in accordance with those arrangements rather than paragraphs (2) and (3); and

(b) by reference to the guidance and tables provided by the scheme actuary for the purposes of this paragraph that are in use on the date used for the calculation.

(5) In any case where the Scottish Ministers have directed, under regulation T6, that part of a member's benefits under these Regulations shall be forfeited, the cash equivalent payable in respect of that member shall be reduced by the capitalised value of the forfeited part of those benefits.

Member seeking transfer payment to be made

M4.—(1) A member who has applied for and received a statement of entitlement under regulation M2 may apply in writing to the Scottish Ministers for a transfer value payment to be made.

(2) On making such an application a member becomes entitled to a payment of an amount equal, or amounts equal in aggregate, to the amount specified in the statement of entitlement (or such other amount as may be payable by virtue of regulation M5(2)).

(3) In these Regulations such a payment is referred to as “the guaranteed cash equivalent transfer value payment”.

(4) The application must specify the pension scheme or other arrangement to which the payment or payments should be applied.

(5) The application must meet such other conditions as the Scottish Ministers may require.

(6) An application under this regulation may be withdrawn by notice in writing to the Scottish Ministers, unless an agreement for the application of the whole or part of the guaranteed cash equivalent transfer value payment has been entered into with a third party before the notice is given.

Applications for transfer value payments: time limits

M5.—(1) Subject to paragraph (5), an application under regulation M4 must be made before the end of the period of 3 months beginning with the guarantee date, and the payment must be made no later than—

- (a) 6 months after that date; or
- (b) if it is earlier, the date on which the member reaches 60.

(2) If the payment is made later than 6 months after the guarantee date, the amount of the payment to which the member is entitled must be increased by—

- (a) the amount by which the amount specified in the statement of entitlement falls short of the amount it would have been if the guarantee date had been the date on which the payment is made; or
- (b) if it is greater and there was no reasonable excuse for the delay in payment, interest on the amount specified in the statement of entitlement, calculated on a daily basis over the period from the guarantee date to the date when the payment is made at an annual rate of 1% above the Bank of England base rate.

(3) In this regulation “Bank of England base rate” means—

- (a) except where sub-paragraph (b) applies, the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or
- (b) if an order under section 19 of the Bank of England Act 1998 is in force, any equivalent rate determined by the Treasury under that section.

(4) Paragraph (5) applies if—

- (a) disciplinary or court proceedings against the member are begun within 12 months after the member leaves the employment which qualified the member to belong to the Scheme; and
 - (b) it appears to the Scottish Ministers that the proceedings may lead to all or part of the member's benefits being forfeited under regulation T6.
- (5) The Scottish Ministers may defer doing what is needed to carry out what the member requires until the end of the period of 3 months beginning with the date on which those proceedings (including any proceedings on appeal) are concluded.
- (6) In any case where a direction is given under regulation T6 for the forfeiture of a member's benefits, this regulation applies as if the amount specified in the statement of entitlement were reduced by an amount equal to the value of the benefits forfeited, as determined by the Scheme Actuary.
- (7) Subject to paragraph (8), if a transfer value payment is made in respect of a member's rights under the Scheme, those rights are extinguished.
- (8) If the member's rights described in regulation M1(4) have been excluded from the transfer payment, the Scottish Ministers will continue to be liable to provide the benefits described in regulation K2(7) of these regulations.”.

Amendment of regulation N1

42. In regulation N1(2)(b) (member's right to transfer accrued rights to benefits to the scheme), after “amount of the transfer payment” insert “that relates to rights accrued in the transferring scheme before 6th April 1997”.

Amendment of regulation P3

43. In regulation P3 (absence for reasons other than illness or injury), for paragraph (1) substitute–

- “(1) This regulation applies to a member who starts a leave of absence from work on, or after, 1st April 2008 for reasons other than those referred to in regulation P1.
- (1A) A period of absence to which this regulation applies that does not exceed 5 years will count as pensionable service if–
- (a) for a continuous period not exceeding 6 months commencing with the member's first day of leave of absence, the member contributes to the scheme; and
 - (b) for a continuous period not exceeding 4 years and 6 months immediately following the period referred to in subparagraph (a), the member pays both contributions due from him under regulation D1 and contributions due from his employer under regulation D2, to the scheme.”.

Amendment of regulation Q1

44.—(1) Regulation Q1 (right to buy additional service) shall be amended as follows.

(2) After paragraph (1) insert–

- “(1A) A member may only increase his rights to benefit by buying additional service, other than that to which paragraph (9) of this regulation refers, if–
- (a) he has given notice of his intention to exercise that right in writing or in such other form as the Scottish Ministers agree to accept; and
 - (b) that notice is received by his employing authority or the scheme administrator on or before 31st March 2008; and
 - (c) the Scottish Ministers accept an election to pay for additional service under regulation Q6 and the member makes regular additional contributions in respect of that election from a birthday that falls between 1st April 2008 and 31st March 2009.”.

(3) For paragraph (2) substitute–

“(2) A member buying additional service to which paragraph (9) refers, may choose to pay for that additional service by–

- (a) making a single payment in accordance with regulation Q3;
- (b) making regular additional contributions in accordance with regulation Q5; or
- (c) a combination of (a) and (b).

(2A) A member buying additional service other than that to which paragraph (9) refers, must pay for that additional service by making regular additional contributions in accordance with regulation Q5.”.

(4) In paragraph (4)(a) after “(early retirement pension on grounds of ill-health)” insert “or E2A (ill-health pension on early retirement)”.

(5) After paragraph (5A) insert–

“(5B) For the purpose of regulation G14 if a member who has a nominated partner exercised his right to buy additional service before 6th April 1988, the additional service bought as a result of the exercise of that right will be treated as service before 6th April 1988.”.

Amendment of regulation Q2

45. In regulation Q2(1) (right to buy an unreduced retirement lump sum) omit “or in a civil partnership”.

Amendment of regulation Q3

46.—(1) Regulation Q3 (paying for additional service by single payment) is amended as follows.

(2) For paragraph (1) substitute–

“(1) A member who wishes to buy additional service for all or part of his previous pensionable service in accordance with regulation Q1(9) by a single payment must elect to do so within 12 months of re-joining the scheme following the break in pensionable employment described in that regulation.”.

(3) Omit paragraph (2).

(4) For paragraph (3) substitute–

“(3) The amount of a single payment for additional service will be one-half of the cost calculated in accordance with Table 1 of Schedule 1.”.

(5) Omit paragraph (7).

Amendment of regulation Q4

47. After regulation Q4(2) (paying for unreduced lump sum by single payment) insert–

“(2B) A member who has a nominated partner who wishes to pay for an unreduced lump sum by a single payment must elect to do so within 12 months after applying for his nominated partner to receive a dependent surviving nominated partner’s pension under regulation G15.”.

Amendment of regulation Q7

48.—(1) Regulation Q7 (part payment for additional service or unreduced retirement sum) is amended as follows.

(2) In paragraph (2), after “(early retirement pension on grounds of ill-health)” insert “or E2A (ill-health pension on early retirement)”.

(3) In paragraph (3), after “E2” insert “or E2A”.

Insertion of new regulations Q8 to Q17

49. After regulation Q7 (part payment for additional service or unreduced retirement sum) insert–

“Option to pay additional periodical contributions to purchase additional pension

Q8.—(1) A member who is in pensionable employment may opt to make additional periodical contributions during the contribution option period to increase by a specified amount–

- (a) the benefits payable to the member under Parts E and S; or
- (b) those benefits and the benefits payable in respect of surviving partners and dependent children under Parts G, H and S.

(2) A member may exercise the option under paragraph (1) more than once.

(3) If a member exercises an option under paragraph (1), the member’s employing authority must–

- (a) deduct the member’s contributions from the member’s earnings; and
- (b) pay them to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid.

(4) The annual amount of the periodical contributions payable at the beginning of the contribution option period must not be–

- (a) an amount less than the minimum amount; or
- (b) an amount other than a multiple of that amount.

(5) In paragraph (4) “the minimum amount” means the amount that would, in accordance with tables prepared for the Scottish Ministers by the scheme actuary for the scheme year in which the contributions are paid, be the amount of the contributions required to secure an increase in the member’s pension of–

- (a) £250; or
- (b) such other amount as the Scottish Ministers may for the time being determine assuming that the contributions are made in accordance with the option for the remainder of the option period.

(6) The tables referred to in paragraph (5)–

- (a) may specify different amounts for different descriptions of members; and
- (b) may be amended during a scheme year,

but no such amendment affects the contributions payable under any option during that year, except an option under which contributions begin to be paid after the date on which the amendment takes effect.

(7) The total increase in the member’s pension as a result of contributions made under this regulation, taken together with any increase as a result of–

- (a) contributions made under regulation Q10; or
- (b) contributions made under regulation Q11,

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine.

(8) In these Regulations “the contribution option period”, in relation to an option under this regulation, means a period of whole years, that–

- (a) is specified in the option;
- (b) begins with the pay period in respect of which the first contribution is made under the option;
- (c) is not less than 1 year nor more than 20 years; and

(d) does not end later than the member's chosen birthday as specified in the option.

(9) For the purposes of this part, a member's 'chosen birthday' must be either his 60th or 65th birthday.

Effect of member being absent or leaving and rejoining the Scheme during the contribution option period

Q9.—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation Q8—

- (a) is absent from work for any of the reasons described in regulation P1(2); or
- (b) is on a leave of absence in accordance with regulation P2.

(2) If paragraph (1) applies—

- (a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation D1; and
- (b) where the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation D1 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

(3) This paragraph applies if a member—

- (a) exercises the option under regulation Q8;
- (b) leaves pensionable employment during the contribution option period; and
- (c) returns to pensionable employment within 12 months of leaving.

(4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after returning to pensionable employment unless a refund of contributions has been made to the member under regulation E9.

(5) For the purposes of paragraph (4) it does not matter whether the member has paid any of the repaid contributions to the Scottish Ministers in accordance with regulation E9(3).

Members option to pay lump sum contributions to purchase additional pension

Q10.—(1) A member who is in pensionable employment may opt to make a single lump sum contribution to increase by a specified amount—

- (a) the benefits payable to the member under parts E and S; or
- (b) those benefits and the benefits payable in respect of surviving partners and dependent children under Parts G, H and S.

(2) A member may only make a contribution under this regulation of an amount—

- (a) that is not less than the minimum amount; or
- (b) a multiple of that amount.

(3) In paragraph (2) "the minimum amount" means the amount that is, in accordance with tables prepared for the Scottish Ministers by the scheme actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member's pension of—

- (a) £250; or
- (b) such other amount as the Scottish Ministers may for the time being determine.

(4) A member may exercise the option under paragraph (1) more than once.

(5) If a member exercises an option under paragraph (1) the additional contribution is payable by the member to the employing authority—

- (a) by deduction from the member's earnings or otherwise; and

(b) before the end of the period of 1 month beginning with the day on which the member is notified by the Scottish Ministers that the option is accepted.

(6) If a member exercises an option under paragraph (1) the employing authority must pay the additional contribution to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.

(7) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation Q8; or
- (b) contributions made under regulation Q11,

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine.

Payment of additional lump sum contributions by employing authority

Q11.—(1) The employing authority of a member who is in pensionable employment may opt to make a single lump sum contribution to increase by a specified amount—

- (a) the benefits payable to the member under parts E and S; or
- (b) those benefits and the benefits payable in respect of surviving partners and dependent children under Parts S, G and H.

(2) An employing authority may only make a contribution under this regulation of an amount—

- (a) that is not less than the minimum amount (as defined in regulation Q10(3)); or
- (b) a multiple of that amount.

(3) An employing authority may only exercise the option under paragraph (1) with the member's consent, but may exercise it more than once in respect of the same member.

(4) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—

- (a) contributions made under regulation Q8; or
- (b) contributions made under regulation Q10,

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine.

(5) A contribution under this regulation must be paid by the employing authority to the Scottish Ministers within one month of the date on which the authority gave the Scottish Ministers notice under regulation Q12(2).

Exercise of options under regulations Q8, Q10 and Q11

Q12.—(1) A member exercising an option under regulation Q8 or Q10 must do so by giving notice in writing to the employing authority, giving such information as may be required.

(2) An employing authority exercising an option under regulation Q11 must do so by giving notice in writing to the Scottish Ministers, giving such information as may be required.

(3) An option under regulation Q8, Q10 or Q11 may not be exercised during a period whilst the member is absent from work.

- (4) For the purposes of these Regulations–
 - (a) a member is treated as exercising an option under regulation Q8 or Q10 on the date on which the employing authority receives the member’s notice under paragraph (1); and
 - (b) an employing authority is treated as exercising an option under regulation Q11 on the date on which the Scottish Ministers receives the authority’s notice under paragraph (2).
- (5) The Scottish Ministers–
 - (a) must refuse to accept an option exercised under–
 - (i) regulation Q8 if not satisfied that that the member is in good health and there is no reason why the member’s health should prevent the member from paying the contributions for the whole contribution period; or
 - (ii) regulation Q10 or Q11 if not satisfied that the member is in good health,
 - (b) may refuse to accept an option under regulation Q8, Q10 or Q11 in any other circumstances.
- (6) If the Scottish Ministers refuse to accept an option described in paragraph (5), the Scottish Ministers must give notice in writing of that fact–
 - (a) in the case of an option exercised under regulation Q8 or Q10, to the member; and
 - (b) in the case of an option exercised under regulation Q11, to the employing authority and the member.
- (7) These Regulations apply as if an option–
 - (a) under regulation Q8, Q10 or Q11 had not been exercised if the Scottish Ministers refuse to accept the option;
 - (b) under regulation Q10 had not been exercised if the payment is not received by the employing authority–
 - (i) before the end of the period of 1 month beginning with the day on which the Scottish Ministers notify the member of the acceptance of the option; or
 - (ii) if it is earlier, on or before the member’s chosen birthday; and
 - (c) under regulation Q11 had not been exercised if the payment is not received by the Scottish Ministers on or before the member’s chosen birthday.

Cancellation and cessation of options under regulation Q8

Q13.—(1) A member may cancel an option under regulation Q8(1) by giving the employing authority notice in writing.

(2) If a member cancels such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date on which the employing authority receives the notice and all subsequent pay periods.

(3) If it appears to the Scottish Ministers that the requirement in regulation Q8(7) (overall maximum) will not be met if the member continues to make periodical contributions under an option exercised under regulation Q8, the Scottish Ministers may cancel the option by giving the member notice in writing.

(4) If the Scottish Ministers cancel such an option, the additional periodical contributions cease to be payable for the first pay period beginning after the date specified in the notice and all subsequent pay periods.

(5) If–

- (a) an amount is determined under regulation Q8(7) that is lower than the amount by reference to which that regulation had effect at the time when a member’s option under regulation Q8 or an option under regulation Q10 or Q11 in respect of the member took effect; and

- (b) as a result of that decrease, any contributions paid by the member under the option under regulation Q8 would secure no increase in the member's pension, the member's option is treated as if it had been cancelled under paragraph (4).

Effect of payment of additional contributions under this Part

Q14.—(1) This regulation applies if—

- (a) an option is exercised by a member under regulation Q8 and all the contributions to be made under the option are made; or
- (b) an option is exercised by a member under regulation Q10 or by a member's employing authority under regulation Q11 and the lump sum payment is made.

(2) The member's pension is increased by the full amount of the increase to be made in accordance with the terms of the option after the final adjustment in that amount in accordance with regulation Q17.

(3) Paragraph (2) is without prejudice to any reduction falling to be made in accordance with regulation Q15(5) as a result of the member becoming entitled to payment of a pension before his chosen birthday.

(4) In the case of an option under regulation Q8(1)(b), Q10(1)(b) or Q11(1)(b), any benefit payable to a surviving partner or a dependent child in respect of the member under these regulations is increased by the appropriate amount.

(5) In paragraph (4) subject to regulations Q15 and Q16(3) "the appropriate amount" means—

- (a) in the case of a surviving partner pension payable under regulation G2, G4 or S4A(10), 37.5% of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));
- (b) in the case of a surviving partner pension payable under regulation G3, 37.5% of the amount of the increase in the member's pension as a result of the option;
- (c) in the case of a child allowance payable under regulation H3, H5 or S4A(17)(b), the appropriate fraction of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3)); and
- (d) in the case of a child allowance payable under regulation H4, the appropriate fraction of the amount of the increase in the member's pension as a result of the option.

(6) For the purposes of paragraph (5) the "appropriate fraction" means the same fraction as that applied to the member's pension in order to calculate the amount of child allowance payable in respect of that member.

(7) No separate claim is required as respects any increase in any benefit by virtue of this regulation.

Effect of death or early payment of pension after option exercised under regulation Q8, Q10 or Q11

Q15.—(1) If a member in respect of whom an option under regulation Q8, Q10 and Q11 has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation Q8 or Q10, to the member's personal representatives; and
 - (ii) in the case of an option under regulation Q11, to the employing authority which made the contribution; and

(b) regulation Q14(4) does not apply.

(2) If a member in respect of whom an option under regulation Q8 has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation Q14(4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation Q8, Q10 or Q11 has been exercised becomes entitled to a pension under regulation E2A as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) regulation Q14(2) and (4) does not apply; and
- (b) an amount equal to the contributions paid under the option must be paid—
 - (i) in the case of an option under regulation Q8 or Q10, to the member, and
 - (ii) in the case of an option under regulation Q11, to the employing authority which made the contribution.

(4) If a member in respect of whom an option under regulation Q8 has been exercised becomes entitled to a pension under regulation E2A before the end of the contribution period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation Q14(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation Q8, Q10 or Q11 has been exercised—

- (a) becomes entitled to a pension under regulation E3, E3A, or E5;
- (b) becomes entitled to a pension under regulation E1 or L1 before reaching the age of 60; or
- (c) becomes entitled to a pension under regulation E1 after age 60 but before his chosen birthday,

the increase in the member's pension which would otherwise be due under regulation Q14(2) or regulation Q16 is reduced.

(6) The amount of the reduction is such amount as the Scottish Ministers determine, after consulting the scheme actuary, to be appropriate by reason of the payment of the increase before the member reaches his chosen birthday.

Effect of part payment of periodical contributions

Q16.—(1) This regulation applies if—

- (a) the full number and amount of contributions due under an option under regulation Q8 for the whole contribution option period are not made; and
- (b) regulation Q15(1) to (4) do not apply.

(2) The increase in the member's pension is—

- (a) the appropriate proportion of the increase that would have been made under regulation Q14(2) if the full number and amount of contributions had been made; or
- (b) the appropriate proportion of the increase calculated in accordance with subparagraph (a) reduced in accordance with regulation Q15(5) if that regulation applies to the member.

(3) In the case of an option under regulation Q8(1)(b), Q10(1)(b) or Q11(1)(b), the increase in any surviving partner or child allowance payable under parts G and H and S in respect of the member is—

- (a) the appropriate proportion of the increase that would have been made under regulation Q14(4) if the full number and amount of contributions had been made; or

- (b) the appropriate proportion of the increase calculated in accordance with subparagraph (a) reduced in accordance with regulation Q15(5) if that regulation applies to the member.

(4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary may determine and specify in guidance given to the Scottish Ministers.

(5) In making a determination under paragraph (44), the scheme actuary must have regard to—

- (a) the proportion that the total contributions paid bears to the full amount of contributions due under an option under regulation Q8 for the whole contribution option period; and
- (b) the preservation requirement.

Revaluation of increases bought under options: members' pensions

Q17.—(1) This regulation applies for the purposes of determining the final amount of the increase in a member's pension as a result of the exercise of an option under regulation Q8, Q10 or Q11.

(2) The amount of that increase immediately before the beginning date for that pension is calculated—

- (a) according to paragraph (3) if the member's pension does not fall to be increased under the Pensions (Increase) Act 1971 when the pension comes into payment (because the beginning date for the pension is the date on which the person becomes entitled to it); or
- (b) according to paragraph (4) if the member's pension falls to be increased under that Act when the pension comes into payment.

(3) Step 1

Calculate the amount of the increase in accordance with regulations Q14 to Q16 immediately before the beginning date ("the basic amount").

Step 2

Adjust the basic amount as follows—

Step A

Multiply the basic amount by the retail prices index for the second month before that in which the person becomes entitled to it.

Step B

Divide the result by the retail prices index for the month in which the option was exercised.

(4) Step 1

Calculate the amount of the increase in accordance with regulations Q14 to Q16 immediately before that date ("the basic amount").

Step 2

Adjust the basic amount as follows—

Step A

Multiply the basic amount by the retail prices index for the second month before that in which the person becomes entitled to it and divide the result by the retail prices index for the month in which the option was exercised.

Step B

Add to the resulting amount the amount by which that resulting amount would be increased under the Pensions (Increase) Act 1971 if it were the amount of the member's pension.

Step C

Multiply the result of Step B by the result of Step A.

Step D

Divide the result of Step C by the result of Step B.

(5) The amount of the increase in a member's pension as a result of the exercise of an option under regulation Q8, Q10 or Q11 as at the beginning date for that pension is if the adjusted basic amount resulting from Step 2–

- (a) is greater than the basic amount, the adjusted amount; and
- (b) is lesser than the basic amount, the basic amount.

(6) In this regulation “the beginning date”, in relation to a pension, means the date on which it is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971.”.

Amendment of regulation R3

50. In regulation R3(8)(a) (mental health officers), after “(early retirement pension on grounds of ill-health)” insert “or E2A (ill-health pension on early retirement)”.

Amendment of regulation R4

51. In regulation R4(3) (members doing more than one job), for “70” substitute “75”.

Amendment of regulation R8

52.—(1) Regulation R8 (members whose earnings are reduced) is amended as follows.

(2) For paragraphs (1) and (2) substitute–

“(1) A member with at least two years qualifying service who suffers a reduction in earnings may elect to take a preserved pension under regulation E6 in respect of his pensionable service before his earnings were reduced if–

- (a) the reduction is due to the circumstances described in paragraph (2); or
- (b) he satisfies the conditions specified in paragraph (2A).

(2) The circumstances referred in paragraph (1)(a) are that the reduction is due to–

- (a) the member being transferred to other employment with an employing authority;
- (b) the member taking up other employment with an employing authority, in circumstances approved by the Scottish Ministers; or
- (c) a change in the member's duties, while continuing in the same employment, otherwise than at the member's request or as a result of something done by the member.

(2A) The conditions referred to in paragraph (1)(b) are that–

- (a) the member has attained–
 - (i) normal minimum pension age; or,
 - (ii) where relevant, protected pension age;
- (b) the Scottish Ministers have not previously accepted an election pursuant to the satisfaction of the conditions referred to in paragraph (1)(b) in respect of that member; and
- (c) the member's employer has certified that–
 - (i) the member's pensionable pay is reduced by at least 10% for a period of at least one year beginning with the first pay day on which the reduced pensionable pay was paid;

- (ii) for a period of at least 12 months ending immediately before the reduction referred to in (i), the member's pensionable pay had not been subject to any other reduction; and
 - (iii) the reduction to the member's pensionable pay is the result of a change to that member's duties so that his new, or remaining, duties are less demanding and carry less responsibility than his previous duties.”.
- (3) For paragraph (4), substitute–
- “(4) An election referred to in this regulation must be made–
 - (a) in writing and addressed to the Scottish Ministers;
 - (b) within three months of the member's earnings being reduced in a case to which paragraph (1)(a) applies; and
 - (c) within 15 months of the member's pensionable pay being reduced in a case to which paragraph (1)(b) applies.”.
- (4) In paragraph (5) for “exercising the option”, substitute “ making an election”.
- (5) In paragraph (6)(b) after “(early retirement pension on grounds of ill-health)”, insert “or E2A (ill-health pension on early retirement)”.
- (6) For paragraph (7), substitute–
- “(7) If the member leaves pensionable employment with a pension under regulation E2 or E2A and the member's pensionable service falls to be increased as described in–
 - (a) regulation E2(4) to (6); or
 - (b) paragraphs (4) to (6) of regulation E2A(4) to (6),
- then, if the member's pensionable service before and after the break is treated separately under paragraph (5), the increase will apply only in respect of benefits attributable to the period after the member's earnings were reduced.
- (7A) For the purposes of this regulation, “pensionable pay” in respect of part-time employment means the amount that the Scottish Ministers determine would have been paid in respect of a single comparable whole-time employment.”.

Amendment of regulation S1

- 53.** For regulation S1(4) (suspension of pension on return to NHS employment) substitute–
- “(4) The pension referred to in paragraph (1) shall again become payable–
 - (a) if the member, for a period of 1 month–
 - (i) ceases to be in any NHS employment; or
 - (ii) reduces the number of hours worked to 16 or less; or
 - (b) if sooner than events described in sub-paragraph (a)–
 - (i) from the date of his 70th birthday if the pension referred to in paragraph (1) becomes payable on or before 31st March 2008; or
 - (ii) from the date of his 75th birthday if the pension referred to in paragraph (1) becomes payable on or after 1st April 2008.”.

Amendment of regulation S2

54.—(1) Regulation S2 (reduction of pension on return to NHS employment) is amended as follows.

- (2) For paragraphs (1) and (1A), substitute–
- “(1) Subject to paragraph (15), this regulation applies to a member–
 - (a) until he attains the age of 60;
 - (b) who is in receipt of a relevant pension; and

(c) who continues in, or subsequently returns to, NHS employment.

(1A) A relevant pension for the purpose of this regulation is a pension payable under–

- (a) any of regulations E2 to E4 or in accordance with E6(2)(b), in respect of pensionable employment that ceased before 1st April 2008;
- (b) any of regulations E2 to E3 or in accordance with E3A(2)(d)(ii) or E6(2)(b), in respect of pensionable employment that ceased on or after 1st April 2008; or
- (c) regulation E1 where the member is a special class officer.”.

(3) For paragraph (3) substitute–

“(3) If the relevant pension is one referred to in paragraph (1A)(a) or (c) the member’s pension will be reduced by the appropriate amount.

(3A) The appropriate amount is the difference between the member’s previous pay and the aggregate of–

- (a) amount of the member’s pension (including in that amount any amount by which that pension has been reduced pursuant to an election under regulation E11); and
- (b) amount of the member’s pay from NHS employment for the financial year after the pension becomes payable.

(3B) If the relevant pension is one referred to in paragraph (1A)(b), the member’s pension will be reduced in accordance with paragraphs (3C) to (3E) if amount A exceeds the member’s previous pay.

(3C) The reduction in that member’s pension shall be equal to the difference between amount A and the member’s previous pay, but shall not exceed amount B.

(3D) For the purposes of paragraphs (3B) and (3C), amount A is the aggregate of–

- (a) the amount of the member’s pay from NHS employment for any financial year after the pension becomes payable; and
- (b) amount B.

(3E) For the purposes of paragraphs (3C) and (3D), amount B is the difference between–

- (a) the amount of the member’s pension (including in that amount any amount by which that pension has been reduced pursuant to an election under regulation E7); and
- (b) the amount of an actuarially reduced pension.”.

(4) In paragraph (11), in the appropriate place in alphabetical order insert–

““actuarially reduced pension” means such annual amount as the Scottish Ministers determine, after consulting the scheme actuary, to be the amount that would have been payable to the member if he had become entitled to a pension calculated in accordance with regulation E5 at the time he became entitled to a pension mentioned in paragraph (1)(c) plus any increases to that amount payable under Part I of the Pensions (Increase) Act 1971 for that period;”.

(5) For paragraph (12), substitute–

“(12) This regulation does not apply to–

- (a) practice staff in respect of whom a pension is payable under any of regulations E1 to E5 and E6 who were employed by a registered medical practitioner on both 31st August 1997 and 1st September 1997 and who–
 - (i) were ineligible to rejoin the scheme with effect from 1st September 1997; or
 - (ii) made an election not to rejoin the scheme with effect from that date and who have not cancelled that election; and
- (b) members who are transferred into NHS employment as a result of a transfer of an undertaking to the employer.”.

Insertion of new regulation S3A

55. After regulation S3 (benefits in respect of pensionable employment after pension becomes payable) insert–

“ Benefits in respect of pensionable employment after pension becomes payable under regulation E2A

S3A.—(1) This regulation applies to a member in respect of whom a pension is payable under regulation E2A and who subsequently returns to pensionable employment.

(2) For the purposes of this regulation–

- (a) the member’s “previous service” means the pensionable service in respect of which the member became entitled to receive a pension under regulation E2A; and
- (b) the member’s “later service” means any pensionable service which accrues after becoming so entitled.

(3) Subject to paragraph (4), the member’s benefits in respect of later service shall be calculated without regard to the member’s previous service.

(4) For the purposes of regulation C2 and regulation D1(3) and (4), the member’s previous service and later service shall be aggregated.

(5) Subject to the following provisions of this regulation, a member who–

- (a) is entitled to a lower tier pension in respect of his previous service; and
- (b) satisfies the lower tier condition or, as the case may be, the upper tier condition in respect of his later service,

shall be entitled to the following benefits.

(6) Those benefits are–

- (a) the member’s original lower tier pension in respect of his previous service; and
- (b) a lower tier pension or, as the case may be, an upper tier pension in respect of his later service.”.

Amendment of regulation S4

56.—(1) In the heading to regulation S4 (benefits on death in pensionable employment after pension becomes payable), after “pension” insert “under regulation E2”.

(2) In regulation S4, for paragraphs (4) to (10) substitute–

“(4) If a member to whom this regulation applies leaves a surviving–

- (a) spouse or civil partner; or
- (b) nominated partner (if the member became entitled to the pension referred to in paragraph (1) on or after 1st April 2008),

the amount of pension payable to the surviving spouse, civil partner or nominated partner shall be the aggregate of the amounts referred to in paragraphs (5) and (7).

(5) Subject to paragraph (9), the amount payable in respect of the member’s previous service shall be equal to the amount of the member’s pension (if any) that was payable when he died.

(6) The amount referred to in paragraph (5) shall be paid for–

- (a) the 3 months immediately following the member’s death; or
- (b) the 6 months immediately following the member’s death if he leaves a dependent child who is dependent on the surviving spouse, civil partner or nominated partner.

(7) The amount payable in respect of the member’s later service shall be equal to the rate of the member’s pensionable pay when he died.

(8) The amount referred to in paragraph (7) shall be paid for the 6 months immediately following the member's death.

(9) Paragraph (5) shall not apply if the aggregate of the spouse's or civil partner's pension and any child allowance which would otherwise be payable under these Regulations in respect of the member's previous service is greater.

(10) Upon expiry of the 3 month or, as the case may be, 6 month period referred to in paragraph (6), the amount of the surviving spouse's, civil partner's or nominated partner's pension in respect of the member's previous service shall be the amount determined in accordance with regulation G3.

(11) Upon expiry of the 6 month period referred to in paragraph (8), the amount of the surviving spouse's, civil partner's or nominated partner's pension in respect of the member's later service shall be equal to one-half of the rate of pension mentioned in paragraph (3A) that would have been payable to the member.

(12) If a member to whom this regulation applies leaves a dependent child but–

- (a) does not leave a surviving spouse or civil partner; and
- (b) a nominated partner pension is not payable in respect of his later service,

the child allowance, for the 6 months immediately following the member's death, shall be equal to the aggregate of the member's rate of pensionable pay when he died and the amount of the member's pension (if any) that he was receiving at that time.

(13) If a member to whom this regulation applies leaves a dependent child not dependent on a surviving spouse or civil partner and a nominated partner pension is not payable in respect of his later service, the child allowance, for the 6 months immediately following the member's death, will be the aggregate of the member's pensionable pay when he or she died and the amount of the member's pension (if any) that he was receiving at the time.

(14) Subject to paragraph (15), except where a child allowance is payable at the rate mentioned in paragraph (12) or (13), the child allowance in respect of the member's later service shall–

- (a) be paid as a proportion of the rate of pension mentioned in paragraph (3A) that would have been payable to the member; and
- (b) such proportion shall be determined in accordance with the circumstances as described in regulation H3.

(15) If a member to whom this regulation applies leaves a child who was a dependent child both at the time the member terminated his previous service and when he died, any child allowance payable under these Regulations shall be calculated according to–

- (a) regulation H4 in respect of the pension already in payment; and
- (b) regulation H3 in respect of later pensionable employment.

(16) If the aggregate of the pensionable service used in the calculation referred to in paragraph (15)(a) and that used in the calculation referred to in paragraph (15)(b) ("the member's aggregated service") is less than 10 years, additional service will be allocated to the later period of pensionable employment for the purpose of the calculation under regulation H3.

(17) The amount of additional service referred to in paragraph (16) is the difference between 10 years pensionable service and the member's aggregated service."

Insertion of new regulation S4A

57. After regulation S4 insert–

“ Benefits on death in pensionable employment after pension under regulation E2A becomes payable

S4A.—(1) This regulation applies to a member in respect of whom a pension is payable under regulation E2A who—

- (a) returns to pensionable employment after that pension becomes payable; and
- (b) dies in pensionable employment.

(2) For the purposes of this regulation, the member’s “previous service” means the pensionable service in respect of which the member became entitled to receive a lower or upper tier pension under regulation E2A and the member’s “later service” means any pensionable service which accrues after becoming so entitled.

(3) Subject to paragraph (4), the member’s benefits in respect of later service shall be calculated without regard to the member’s previous service.

(4) For the purposes of regulation C2 and regulation D1(3) and (4), the member’s previous service and later service shall be aggregated.

(5) If this regulation applies, a lump sum payable on the member’s death shall be payable in addition to any lump sum payable under regulation F2.

(6) The additional lump sum referred to in paragraph (5) shall be equal to 5 times the amount of the pension that would have been payable to the member had he left NHS employment and been entitled to an upper tier pension based on his later service under regulation E2A on the date of the member’s death.

(7) If a member to whom this regulation applies leaves a surviving spouse, civil partner or nominated partner, the amount of pension payable to the surviving spouse, civil partner or nominated partner shall be the aggregate of the amounts referred to in paragraphs (8) and (10).

(8) Subject to paragraph (12), the amount payable in respect of the member’s previous service shall be equal to the amount of the member’s pension (if any) that was payable when he died.

(9) The amount referred to in paragraph (8) shall be paid for—

- (a) the 3 months immediately following the member’s death; or
- (b) the 6 months immediately following the member’s death if the member leaves a dependent child who is dependent on the surviving spouse, civil partner or nominated partner.

(10) The amount payable in respect of the member’s later service shall be equal to the member’s rate of pensionable pay when he died.

(11) The amount referred to in paragraph (10) shall be paid for the 6 months immediately following the member’s death.

(12) Paragraph (8) shall not apply if the aggregate of the spouse’s, civil partner’s or nominated partner’s pension and any child allowance which would otherwise be payable under these Regulations in respect of the member’s previous service is greater?

(13) Upon expiry of the 3 month or, as the case may be, 6 month period referred to in paragraph (9), the amount of the surviving spouse’s, civil partner’s or nominated partner’s pension in respect of the member’s previous service shall be the amount determined in accordance with regulation G3.

(14) Upon expiry of the 6 month period referred to in paragraph (11), the amount of the surviving spouse’s, civil partner’s or nominated partner’s pension in respect of the member’s later service shall be equal to one-half of the rate of pension that would have been payable to the member had he become entitled to the pension mentioned in paragraph (6).

(15) If a member to whom this regulation applies leaves a dependent child but does not leave a surviving spouse, civil partner, or nominated partner, the child allowance, for the 6 months immediately following the member’s death, shall be equal to the aggregate of—

- (a) the member's rate of pensionable pay when he died; and
- (b) the amount of the member's pension (if any) that he was receiving at that time.

(16) Subject to paragraph (17), except where a child allowance is payable at the rate mentioned in paragraph (15), the child allowance in respect of the member's later service shall—

- (a) be paid as a proportion of the rate of pension that would have been payable to the member had he become entitled to the pension mentioned in paragraph (6); and
- (b) such proportion shall be determined in accordance with the circumstances as described in regulation H3.

(17) If a member to whom this regulation applies leaves a child who was a dependent child both at the time the member terminated his previous service and when he died, any child allowance payable under these Regulations shall be calculated according to—

- (a) regulation H4 in respect of the pension already in payment; and
- (b) regulation H3 in respect of later pensionable employment.

(18) If the aggregate of the pensionable service used in the calculation referred to in paragraph (17)(a) and that used in the calculation referred to in paragraph (17)(b) ("the member's aggregated service") is less than 10 years, additional service will be allocated to the later period of pensionable employment for the purpose of the calculation under regulation H3.

(19) The amount of additional service referred to in paragraph (18) is the difference between 10 years pensionable service and the member's aggregated service."

Amendment of regulation T2A

58.—(1) Regulation T2A (deduction of tax: further provisions) is amended as follows.

(2) In paragraph (2) for "Where" substitute "Subject to paragraph (2A), if".

(3) After paragraph (2) insert—

"(2A) The member's present or future benefits in respect of which any charge under paragraph (2) arises shall be reduced by an amount that fully reflects the amount of tax paid by the scheme administrator and shall be calculated by reference to advice provided by the Scheme Actuary for that purpose."

59. New regulation U4 After regulation U3 insert—

"Cost Sharing

U4.—(1) The actuarial report referred to in regulation U3 (accounts and actuarial reports) shall specify—

- (a) a recommended contribution rate (RCR); and
- (b) a projected yield from members' contributions (PYM).

(2) Where the member contribution rate or benefits in England and Wales provided by the National Health Service Pension Scheme Regulations 1995^(a) have changed as a consequence of determinations made by the Secretary of State under regulation U4 of those regulations, the actuarial report referred to in regulation U3 (accounts and actuarial reports) of these Regulations shall also specify—

- (a) a recommended contribution rate (RCR1), as if the changes in England and Wales had been applied in Scotland;
- (b) a projected yield from members' contributions (PYM1) as if the changes in England and Wales had been applied in Scotland.

(a) S.I. 1995/360.

(3) Where the member contribution rate or benefits in England and Wales provided by the National Health Service Pension Scheme Regulations 1995 have changed as a consequence of determinations made by the Secretary of State under regulation U4 of those regulations, the initial employers' contribution rate (IECR) shall be calculated as RCR1 minus PYM1.

(4) Where the member contribution rate or benefits in England and Wales provided by the National Health Service Pension Scheme Regulations 1995 have not changed as a consequence of determinations made by the Secretary of State under regulation U4 of those regulations, the initial employers' contribution rate (IECR) shall be calculated as RCR minus PYM.

(5) Subject to paragraph (6) employing authorities will pay contributions under regulation D2 at the rate of IECR.

(6) In the event that IECR is more than one percentage point greater than or less than the rate payable by employing authorities in England and Wales under regulation U4 of the National Health Service Pension Scheme Regulations 1995, for the same period, the relevant member contribution rates and employer contribution rates will be subject to review by Scottish Ministers having–

- (a) taken advice from the Scheme actuary; and
- (b) consulted with the Treasury and the Governance Group.”.

Amendment of Schedule 1

60.—(1) Schedule 1 is amended as follows.

(2) In paragraph 2A (Membership: locum practitioners)–

- (a) subparagraph (4) is omitted; and
- (b) in subparagraph (5), for “Except where sub-paragraph (4) applies, no” substitute “No”.

(3) In paragraph 8 (Limit on pensionable earnings - dental practitioners) - in subparagraph (2), after “1995” insert “and ending before 1st April 2008”.

(4) In paragraph 9(5) after “E2” insert “or E2A”.

(5) For paragraph 10(2) (Contributions to the scheme) substitute–

“(2) The contribution rate for practitioners and non-GP providers is as set out in the following tables.

Table 1
2007-2008

<i>Column 1</i> <i>Amount of pensionable earnings (full-time equivalent)</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £19,662	5%
£19,683 to £65,002	6.5%
£65,003 to £102,499	7.5%
£102,500 to any higher amount	8.5%

Table 2
2006-2007

<i>Column 1</i> <i>Amount of pensionable earnings (full-time equivalent)</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £19,165	In the case of a manual worker 5%

£19,166 to £63,416	In any other case 6% In the case of a manual worker 5%
£63,417 to £99,999	In any other case 6% 6%
£100,000 to any higher amount	6%

Table 3
2005-2006

<i>Column 1</i> <i>Amount of pensionable earnings (full-time equivalent)</i>	<i>Column 2</i> <i>Contribution rate</i>
Up to £18,697	In the case of a manual worker 5% In any other case 6%
£18,698 to £61,869	In the case of a manual worker 5% In any other case 6%
£61,870 to £97,560	6%
£97,561 to any higher amount	6%

(2A) If the Scottish Ministers so determine, sub-paragraph (2) has effect from the date specified in the determination with the substitution of any or all of the tables in that sub-paragraph for such amounts and or rates (whether in tabular form or otherwise) as are specified in the determination.

(2B) For the purposes of determining the relevant contribution rate for the scheme year 1st April 2008 to 31st March 2009 (“the reference year”)–

- (a) pensionable earnings from all the member’s service as a practitioner or non-GP provider shall be aggregated; and
- (b) the following provisions shall apply.

(2C) Subparagraphs (2D) to (2J) apply to registered medical practitioners and non-GP providers.

(2D) If the practitioner or non-GP provider–

- (a) was in pensionable employment at any time during the 2007–2008 scheme year; and
- (b) is in such employment on 1st April 2008,

subparagraphs (2E) to (2J) apply.

(2E) If, in accordance with paragraph 23, the practitioner or non-GP provider has certified pensionable earnings for the 2006–2007 scheme year (being a year throughout which he was in pensionable employment) and forwarded a record of those earnings to the employing authority concerned, the contributions payable for the reference year shall be those specified in Column 2 of Table 2 in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to those certified earnings.

(2F) If the practitioner or non-GP provider–

- (a) in accordance with paragraph 23, has certified his pensionable earnings for the 2006–2007 scheme year and forwarded a record of those earnings to the host Trust or Board;
- (b) was not engaged in pensionable employment throughout the whole of that year; and
- (c) has certified and forwarded a record of his pensionable earnings for the 2005–2006 scheme year (being a year throughout which he was in pensionable employment),

the contributions payable for the reference year shall be those specified in Column 2 of Table 3 in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to the certified earnings for the 2005-2006 scheme year.

(2G) If, in accordance with paragraph 23, the practitioner or non-GP provider has–

- (a) certified his pensionable earnings for the 2005–2006 scheme year;
- (b) not certified his pensionable earnings for any later scheme year; and
- (c) forwarded a record of those certified earnings to the employing authority concerned,

the contributions payable for the reference year shall be those specified in Column 2 of Table 3 in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to those certified earnings.

(2H) If paragraphs (2E) to (2G) do not apply–

- (a) the practitioner’s or, as the case may be, the non-GP provider’s pensionable earnings for the reference year shall be the amount agreed between the employing authority concerned and the practitioner or provider as representing their estimate of pensionable earnings for that year; and
- (b) contributions payable for that year shall be those specified in Column 2 of Table 1 in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to those estimated earnings.

(2I) If the practitioner or non-GP provider–

- (a) was not in pensionable employment for any part of the 2007–2008 scheme year;
- (b) was in pensionable employment for part of that year but ceased to be in such employment before 31st March 2008; or
- (c) commences pensionable employment for the first time in the 2008–2009 scheme year,

for the reference year–

- (i) the practitioner’s or non-GP Provider’s pensionable earnings shall be the amount agreed between the employing authority concerned and the practitioner or provider as representing their estimate of practitioner’s or provider’s pensionable earnings for that year; and
- (ii) contributions payable shall be those specified in Column 2 of Table 1 in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to those estimated earnings.

(2J) If the practitioner or non-GP provider–

- (a) commences pensionable employment as a practitioner or non-GP provider in the reference year; and
- (b) had previous pensionable employment in the scheme as an officer; and
- (c) was in pensionable employment as an officer or non-GP provider on 1st April 2008 but since ceased such employment,

for the reference year–

- (i) the practitioner’s or non-GP Provider’s pensionable earnings shall be the amount of their pensionable earnings as an officer on which they were allocated to a contribution tier in accordance with regulation D1; and
- (ii) contributions payable shall be those specified in Column 2 of Table 1 in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to their prior pensionable earnings as an officer.

(2K) Sub-paragraphs (2L) to (2P) apply to dental practitioners.

(2L) If a dental practitioner–

- (a) was in pensionable employment as a dental practitioner throughout the 2007–2008 scheme year; and
- (b) was in such employment on 1st April 2008,

for the reference year–

- (i) the practitioner’s pensionable earnings shall be the practitioner’s pensionable earnings for the 2006–2007 scheme year; and
- (ii) contributions payable shall be those specified in Column 2 of Table 2 in respect of the amount of pensionable earnings referred to in Column 1 of that Table corresponding to the practitioner’s pensionable earnings for the 2006-2007 scheme year.

(2M) If a dental practitioner–

- (a) was in pensionable employment as a dental practitioner for part only of the 2006-2007 scheme year; and
- (b) was in such employment on 1st April 2008,

for the reference year–

- (i) the practitioner’s pensionable earnings shall be calculated according to the formula–

$$\frac{PER}{NDPE} \times 365$$

where–

PER is the pensionable earnings received during that part of the scheme year referred to in subparagraph (a); and

NDPE is the number of days of pensionable employment; and

- (ii) contributions payable shall be those specified in Column 2 of Table 2 in respect of the amount of pensionable earnings referred to in Column 1 of that Table corresponding to the practitioner’s pensionable earnings for the 2006-2007 scheme year calculated in accordance with this subparagraph.

(2N) If a dental practitioner–

- (a) commences pensionable employment as a dental practitioner at any time during the 2007–2008 scheme year; and
- (b) was in such employment on 1st April 2008,

for the reference year–

- (i) the practitioner’s pensionable earnings shall be calculated according to the formula–

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

where–

EPE is an estimate of the practitioner’s pensionable earnings for that part of the scheme year referred to in subparagraph (a); and

NDPE is the number of days of pensionable employment; and

- (ii) contributions payable shall be those specified in Column 2 of Table 1 in respect of the amount of pensionable earnings referred to in Column 1 of that Table corresponding to the practitioner’s estimated pensionable earnings for the 2007–2008 scheme year calculated in accordance with this sub-paragraph.

(2O) If a dental practitioner commences pensionable employment as a dental practitioner at any time during the 2008–2009 scheme year, for the reference year–

- (a) the practitioner’s pensionable earnings shall be calculated according to the formula–

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

where–

EPE is an estimate of the practitioner’s pensionable earnings from all sources for the days of pensionable employment in the 2008–2009 scheme year; and

NDPE is the number of days of pensionable employment; and

- (b) contributions payable shall be those specified in Column 2 of Table 1 in respect of the amount of pensionable earnings referred to in Column 1 of that Table corresponding to the practitioner’s pensionable earnings for the 2008–2009 scheme year calculated in accordance with this sub-paragraph.

(2P) If a dental practitioner–

- (a) commences pensionable employment as a dental practitioner for the first time in the reference year;
- (b) had previous pensionable employment in the scheme as an officer or as a non-GP provider; and
- (c) was in pensionable employment as an officer or non-GP provider on 1st April 2008 but has since ceased that employment,

for the reference year–

- (i) the dental practitioner’s pensionable earnings shall be the amount of his pensionable earnings as an officer or a non-GP Provider on which he was allocated to a contribution tier in accordance with regulation D1; and
- (ii) contributions payable shall be those specified in Column 2 of Table 1 in respect of the amount of pensionable earnings referred to in Column 1 of that Table which corresponds to their prior pensionable earnings as an officer or non-GP provider.”.

(6) In paragraph 10(3)(a) omit “and reaches age 65”.

(7) For paragraph 11(2) (normal retirement pension) substitute–

“(2) The member’s uprated earnings are to be calculated by uprating the member’s pensionable earnings by the amount of the annual increase due under the provisions of the Pensions (Increase) Act 1971 and Section 59 of the Social Security Pensions Act 1975, plus 1.5% annually.”.

(8) In paragraph 12–

- (i) for “regulation E2 (early retirement pension on grounds of ill-health) is” substitute “regulations E2 and E2A are”;
- (ii) for “that regulation” substitute “regulation E2 or regulation E2A(4) to (6)”.

(9) After paragraph 16A (increased surviving civil partner's pension) insert–

“Increased dependent surviving nominated partner's pension

16B. In the case of a member who made a nomination under regulation G15 that regulation is modified so that the lump sum payable on the member's retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.

Increased surviving partner pension

16C. In the case of a member who made an election under regulation G17 that regulation is modified so that the lump sum payable on the member's retirement will be reduced by 1.96 per cent of uprated earnings for each complete year of practitioner service before 6th April 1988 plus the relevant daily proportion for each additional day.”.

(10) For paragraph 17 (Child allowance - member dies in pensionable employment) substitute–

“Child allowance - member dies in pensionable employment

17. In the case of members who die in pensionable employment as practitioners–

- (a) regulation H3(6) and (7) is modified so that the references to the rate of the member's pensionable pay when he died is treated, in relation to the member's employment as a practitioner, as references to the average rate of the member's pensionable earnings during the last complete quarter before the member died; and
- (b) regulation H3(9) is modified so that the reference to the member's final year's pensionable pay when he died is treated as a reference to the yearly average of the member's uprated earnings at the date of death.”.

(11) Paragraph 18(6) (members absent from work) is omitted.

(12) After paragraph 22 (reduction of pension insert–

“Benefits on death in pensionable employment after pension becomes payable

22A. The following provisions are modified so that the reference to the member's rate of pensionable pay when he dies is treated as a reference to the average rate of the member's pensionable earnings during the last complete quarter before the member died–

- (a) regulation S4(7) and (12); and
- (b) regulation S4A(10) and (15)(a).”.

Amendment of Schedule 1A

61.—(1) Schedule 1A is amended as follows.

(2) After paragraph 2(b) (lump sum on death), insert–

“(c) the reference in regulation F5(2), (3), (4) and (10) to “member's personal representative” shall be a reference to “personal representative of the person entitled to a pension credit or, as the case may be, the pension credit member”.

(d) for regulation F5(6) substitute–

“(6) A nomination may only be made by a person entitled to a pension credit, or as the case may be, a pension credit member under the scheme.”;

(e) for regulation F5(9) substitute–

“(9) A person entitled to a pension credit, or as the case may be, a pension credit member whose credit was implemented on, or after, 1st April 2008 cannot give a notice referred to in paragraph (3)(a).”; and

(f) in regulation F5(12) omit subparagraph (d)”.

EXPLANATORY NOTE

(This note is not part of the Regulations)