

**Explanation of 2008 Amending Regulations  
Consultation on changes to the existing scheme  
(The 1995 Scheme – 1<sup>st</sup> April 2008 and after terms)**

**Regulation 1 and 2 Sets the context for the amending regulations**

Names the regulations as the “National Health Service Superannuation Scheme (Scotland) (Amendment) Regulations 2008”. The amending regulations change the provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 1995 with effect from 1 April 2008.

**Regulation 3 Changes to Part A2 – Interpretation**

Inserts definitions of new terms used in the amending regulations-

“Scheme Year” means any year beginning 1 April and ending on 31 March. This term is used in regulation D1.

“Section 9(2B) rights” relates to membership (after 1997) of a scheme that contracts its members out of the State Scheme. This term is used in part K.

“Tax year” means any year beginning 6 April and ending on 5 April. This term is used in regulation C1 and regulation E2C.

The definition of final year’s pensionable pay is moved into Regulation C1 Changes to Part B ‘Membership of the Scheme’

**Regulation 4** Replaces regulation B2 (Restrictions on membership) so that from 1 April 2008 persons who are not allowed to join the 1995 scheme will also include:

- Members over the age of 75 (other than members who are aged 70 on or before 31 March 2008 who are receiving their NHS benefits.)  
(see(a))
- Brand new starters (see(f))

- Returners who did not have enough service to qualify for benefits when they left (under two years) and have received or are only entitled to a refund for their earlier service. <sup>1</sup> (see(g))
- Members who leave the 1995 scheme on or after 1 April 2008 and subsequently transfer their benefits to another scheme (see(h))

Clarifies that members of the other (UK) Health Service Schemes joining the Scheme for Scotland will be treated as if their membership in the other UK Scheme had been membership in the Scottish scheme.

### **Regulation 5**

Makes a technical change to regulation B3 (restriction on further participation in the scheme)

Ensures that members who are in receipt of a ‘tier 1’ ill health pension under new rules will be able to rejoin the scheme if they return before age 50.

### **Changes to part C ‘Pensionable pay, pensionable service and qualifying service’**

### **Regulation 6**

Amends regulation C1 (Meaning of “pensionable pay”) so that the permitted maximum (earnings cap) does not apply to membership on and after 1 April 2008. The cap will still apply to:

- membership up to and including 31 March 2008 (including any membership transferred into the scheme before 1 April 2008 that was subject to the cap in the previous scheme)
- added years being purchased where the member was subject to the cap when the contract was taken out
- service transferred into the NHS scheme after 1 April 2008 from a scheme that participates in the Public Sector Transfer

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<sup>1</sup>Returners in this category will join the new scheme. Returners whose earlier service was less than two years but who return to the NHS within 12 months of leaving will be allowed to rejoin the 1995 scheme

Arrangements, ('The Club') if the member was subject to the cap or similar provision in their previous 'Club' scheme<sup>2</sup>

Members who were subject to the cap (and breached it) will receive separate pensions at retirement for their capped and uncapped service. The latter will be based on their final years 'uncapped' pensionable pay.

- The definition of "final years pensionable pay" is moved into the body of C1 from Reg A2.e

**Regulation 7** Amends regulation C2 (Meaning of "pensionable service") so that membership before 1 April 2008 is still subject to the current limit of 40 years at age 60 but removes this limit for membership after 1 April 2008. After that date the limit will be 45 years membership.

The current <sup>3</sup>limits for <sup>4</sup>Special Class members are retained.

#### **The Final Heads of Paragraphs 15 and 16 Agreement:**

**Regulation 8** Amends regulation C4 (Pensionable service in respect of part-time employment) as a consequence of the introduction of new ill health retirement rules

Service is used at its calendar length for the purpose of calculating whether the member qualifies for a pension and by how much the service used to calculate the pension should be increased.

The value of any increase to service is adjusted according to the proportion of full time working throughout the member's service.

#### **Changes to Part D 'Contributions'**

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<sup>2</sup> If the earnings cap is exceeded, at retirement separate benefits will be calculated for service up to 31.3. 2008, 'capped' added years and 'capped' service transferred into the scheme. These benefits will be based on the earnings cap at retirement instead of final pensionable pay..

<sup>3</sup> 40 years at age 55 and 45 years overall

<sup>4</sup> Qualifying nurses, physiotherapists, health visitors, and midwives and mental health officers

## Regulation 9

Paragraph (1) amends regulation D1 (Contributions by members) so that member contributions from 1 April 2008 will be based on a tiered rate depending on the level of pensionable pay.

There is one exception. Members who are currently paying 5% of pensionable pay will continue to do so until 1<sup>st</sup> April 2009.

### **Thresholds, contribution percentages and pay to be used for deciding which tier applies**

The arrangements cover the scheme year 1 April 2008 to 31 March 2009. For this year the pay thresholds and contribution rates are:

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%

The pay to be used to decide which tier a member should be allocated to for 08/09 will depend on the circumstances of their employment.

### **Continuous employment 1<sup>st</sup> April 2007 to 1<sup>st</sup> April 2008**

Members who are employed on 1<sup>st</sup> April 2008 who were continuously employed throughout the scheme year 1 April 2007 to 31 March 2008 (07/08) will have their contribution rate set according to the pensionable pay they received in that year.

For part-time members the rate will be set according to the pensionable pay that would have been received in that year had they worked full time<sup>5</sup> (full time equivalent).

For members who have worked a combination of full time and part-time during this year, pensionable pay will be a combination of full time pay and full time equivalent pay.

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<sup>5</sup> Benefits for part-time members are calculated using equivalent full time pay

### **Concurrent employments with the same or a different employer**

The contribution rate for members who have been continuously employed in two or more concurrent part-time posts will be assessed separately for each post; the contribution rate for each post will depend on the full time equivalent pay for that post.

### **Changes in employment during 07/08 – Member is employed on 31<sup>st</sup> March 2008 and 1<sup>st</sup> April 2008 by the same employer**

The contribution rate for members who started their <sup>6</sup> current employment part way through 07/08 after a break will be based on the pensionable pay received for this employment up to 31 March 2008, uprated to an annual figure. If the employment is part-time this amount will be converted to its full time equivalent.

### **New employments starting on or after 1<sup>st</sup> April 2008 – Member was not in employment on the 31<sup>st</sup> March 2008**

Members in this position will have their contribution rate set by the pensionable pay their employer estimates will be received from the start date of employment to 31 March 2009. Because this will not be a full year the estimated amount will be uprated to an annual amount. If the employment is part-time, this annual amount will be converted to its full time equivalent.

If a member's circumstances do not fit with any of the circumstances above, the rate will be set by taking account of pensionable pay for employment that is comparable to the member's, prevailing pay scales and prevailing rates of pensionable allowance

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<sup>6</sup> Employment that spans 1<sup>st</sup> April 2008

However, work will continue with Review Partners and payroll experts during the consultation period to identify further circumstances that may be covered in detail in regulations

**The Final Heads of Agreement:**

**Paragraph 54**

Paragraph (3) amends regulation D1(4) so that members who do not qualify for special class status will be required to pay contributions until they have 45 years membership or reach age 75 if sooner

**Changes to Part E ‘Benefits for Members’**

**Regulation 10**

Amends regulation E1 (normal retirement pension) so that after 1 April 2008 members will receive a pension at age 75 and not 70 if they are still in NHS employment and have not claimed benefits before then.

**Regulation 11**

Amends regulation E2 (Early retirement pension ill-health) so that the current ill health provisions apply to members who retire on or before 31 March 2008 and introduces transitional arrangements for existing members who apply before 1<sup>st</sup> April 2008 to be treated under the current terms even though they may retire after 1 April 2008.

Members who retire under current ill health terms who are able to re-join the scheme will again be treated under current terms if they retire on ill health ground for a second time.

The amendments also take account of the new facility to take additional lump sum instead of pension and provides for a member who is terminally ill to commute the maximum amount of pension into lump sum before the remainder of his pension is commuted.

**IHR Consultation**

**Pages 9 and 10**

**Regulation 12**

**Introduce new regulations E2A, E2B and E2C**

**E2A – Ill Health pension on early retirement**

Members retiring on ill health grounds on or after 1 April 2008 will be subject to the new 'two tier' ill health provisions contained in regulation E2A.

**Lower tier condition and benefits** – Members with at least 2 years membership who are permanently unable to continue in their current job because of ill health will receive the early payment of the pension they have earned up to the date of retirement.

**Upper tier 2 condition and benefits** - Members with at least 2 years membership who are permanently unable to undertake any regular employment will receive benefits based on membership increased by 2/3rds of the membership they would have completed if they had worked until age 60. There will also be a transitional underpin of 4 years minimum increase subject to a maximum of the membership they would have had at age 60.

## **IHR Consultation Pages 4 to 6**

### **Working again in the NHS**

Members who are awarded a lower tier pension may re-join the scheme if they are under age 50 when they return to NHS employment  
Members who are awarded an upper tier pension may rejoin the scheme after 1 year following their first day of NHS re-employment and if under age 50.

### **E2B Re-assessment of ill health condition determined under regulation E2A**

Where, at the time a lower tier pension is awarded, it is agreed that a member's entitlement may be re-assessed against the upper tier condition; this regulation permits a member to request a re-assessment in the following circumstances–

- the member has not been re-employed in the NHS
- the member's request is made within three years of the original decision to award a lower tier pension

- the member provides further medical evidence relating to the same condition for which he was awarded a lower tier pension

If, based on the further medical evidence, it is decided that the member meets the condition for an upper tier pension, an upper tier pension will be paid instead of the lower tier pension from the date of this decision.

## **IHR Consultation Pages 6 to 7**

### **E2C Further employment after a benefit is paid under regulation E2A**

#### **Re-employment**

This regulation covers the circumstances in which an upper tier pension will be replaced by a lower tier pension.

Those circumstances are:

- The member's earnings from any further employment in any tax year exceed the lower earnings limit (LEL) for national insurance purposes for that tax year.
- Where a member is re-employed in the NHS, one year after they become re-employed, if sooner.

#### **Automatic 'one year' protection period**

Members whose upper tier pension is replaced by a lower tier pension will be automatically protected from the permanent loss of their upper tier pension for a period of one year that will run –

- from the date earnings exceed the LEL (for those not employed in the NHS), and
- from the first day of re-employment (for those who are employed in the NHS)

If further employment ends during the ‘one year protection period’ and a member is under <sup>7</sup>normal benefit age he may apply for his upper tier pension to be reinstated. An application must be made before the end of the protection period and the member must supply further medical evidence to support his application. If, after considering this evidence, it is agreed that the member again satisfies the upper tier condition in respect of his earlier period of employment, his upper tier pension will be re-instated.

### **Administration**

The regulation also covers the administrative process to be followed where a member is re-employed. A member must notify the scheme if their earnings exceed the LEL or they are employed in the NHS at a point more than one year since they first started NHS employment. Members must also provide any information requested by the scheme in connection with further employment.

### **IHR Consultation Pages 7 and 8**

#### **Regulation 13**

Amends regulation E3 to clarify that re-employed pensioners may still have access to a pension and lump sum under the transitional redundancy arrangements if the other qualifying criteria are met<sup>8</sup>.

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<sup>7</sup> Age 60

<sup>8</sup> Members who retire with an ill health pension after 1 December 2006 and are then re-employed are not entitled to enhancements under the compensation regulations if made redundant because they do not have any pensionable service in the scheme on 30 September 2006; the date when entitlement to enhancements is assessed. However, they may still qualify for a basic pension and lump sum under the pension scheme regulations (old arrangements).

**Regulation 14** Removes regulation E4 so that ‘early retirement with an Employer’s consent’ is no longer available after 1 April 2008

### **Changes to Part E “Preserved pensions”**

**Regulation 15** Amends regulation E6 as a consequence of the change of the scheme’s upper age limit to 75 years – members who have a deferred benefit but who are still in NHS employment on and after age 60, will be paid benefits at age 75 (rather than age 70) even if they continue to work in the NHS after that age.

**Regulation 16** Amends regulation E9 (Early leaver’s entitlement to refunds of contributions) to take account of the technical changes made to Part K – Contracting Out.

**Regulation 17** Inserts new regulation E11 (General option to exchange part of pension for lump sum). This regulation allows members who leave the scheme on or after 1 April 2008 to take an additional lump sum in place of part of their pension. The lump sum taken must not exceed the maximum allowed under the Finance Act and must not reduce the member’s pension to such a level that it is insufficient to meet any liability to pay a minimum amount in respect of membership before 1997 that was contracted out of the State Pension Scheme (The Guaranteed Minimum Pension).

Members will receive £12 of lump sum for every £1 of pension they give up. The additional lump sum must be a multiple of 12 so that a whole amount of pension in £s is given up for a whole amount of lump sum in £s.

Members will be able to exercise this option when they apply for their benefits or after then (within a time limit set by the Scheme Administrator) as long as benefits have not yet been put into payment.

**The Final Agreement:**

**Paragraphs 22 and 25**

**Changes to Part F ‘Lump Sum on death’**

**Regulation 18**

Amends paragraph (1) of regulation F1 (Member dies in pensionable employment) so that a lump sum on death where a member dies whilst in service may be paid up to age 75

**Regulation 19**

Puts a new paragraph (6) into regulation F2 (Member dies after pension becomes payable). If a member’s upper tier ill health pension has been replaced by a lower tier pension, any death benefit lump sum payable during the one year protection period will be based on the original upper tier pension.

**Regulation 20**

Replaces regulation F5 (Payment of lump sum) so that the new version includes changes to how a lump sum on death may be paid

**Changes to nominations**

Members who are in<sup>9</sup>pensionable employment on or after 1 April 2008 may nominate more than one person to receive the lump sum on death. A nomination may be revoked or changed at any time but must specify the percentage to be paid to each nominee. If at the time of death, it is not possible to pay to one or more of the nominees; the relevant percentage of the lump sum will be paid to the member’s personal representatives.

**Changes to take account of nominated partners**

If a member has nominated a partner to receive a pension following their death, the nominated surviving partner will also receive the lump sum on death unless the member has provided alternative instructions.

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<sup>9</sup> Employment during which scheme contributions are paid

**Replacement of the current (separate) facility to notify the scheme that a lump sum on death is not to be paid to a spouse or a civil partner**

This is known as a ‘de-nomination’ and will be discontinued from 1 April 2008.

Instead, members who are in pensionable employment on or after 1 April 2008, and are married, in a civil partnership or who have a nominated partner but do not want their respective spouse or partner to receive their lump sum on death may:

- nominate other person(s) to receive it
- nominate their personal representatives to receive it

De-nominations already made will be honoured and may still be made by pensioner and deferred members who left before 1 April 2008.

**The Final Heads of Agreement:**

**Paragraph 36**

**Changes to Part G ‘Widows, widowers and surviving civil partners’**

**Regulation 21**

Changes the title of Part G to ‘Surviving partner pensions’

**Regulation 22**

Amends regulation G1 (Widow’s pension) so that regulations that cause a spouse or civil partner pension to stop if a member re-marries or forms a further civil partnership will not apply to members who have pensionable service in the scheme on or after 1 April 2008.

**Regulation 23**

Amends regulation G2 (Widow’s pension when member dies in pensionable employment) so that initial <sup>10</sup>surviving partner pensions in respect of members who die in pensionable employment on or after 1 April 2008 will be paid for six months at pensionable pay rate, regardless of any child allowances that may be payable.

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<sup>10</sup> Widow’s, widower’s, surviving civil partner’s and surviving nominated partner’s pensions.

The rate of the surviving partner pension after this six month period will be based on the upper tier pension the member would have received if he had retired on ill health.

**Regulation 24**

Puts a new paragraph (6) into regulation G3 (Widow's pension when member dies after pension becomes payable).

If a member's upper tier ill health pension has been replaced by a lower tier pension, any surviving partner pension that becomes payable during the one year protection period will be based on the original upper tier pension.

**Regulation 25**

Replaces paragraph (2) of regulation G4 (Widow's pension when member dies with preserved pension). If a member leaves the scheme after 1 April 2008 and dies within 12 months of leaving, any surviving partner pension will be based on the upper tier pension the member would have received if he had retired on ill health

**Regulation 26**

Replaces paragraph (4) of regulation G7 (Widowers pension). If a widower's pension is to be based on a proportion of the member's upper tier ill health pension under new rules, this amendment allows the whole of the member service to be taken into account when determining how much <sup>11</sup>additional service is to be added and for applying overall service limits to the calculation of the ill health pension. The widower's pension will be equal to half the member's pension for service after 5 April 1988 and half of the entire enhancement due.

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<sup>11</sup> enhancement

### **Regulation 27**

Makes an amendment that applies to female members who elected to purchase an increased widower's pension before 1<sup>st</sup> July 1989 - If a member who made such an election is in or returns to pensionable employment after 1<sup>st</sup> April 2008, the increase she has elected to purchase will apply to any surviving partner pension that may be payable on her death.

### **Regulation 28**

Replaces paragraph (4) of regulation G10 (Surviving Civil partner's pension) If a surviving civil partner's pension is to be based on a proportion of the members ill health pension under new rules, this amendment allows the whole of the member service to be taken into account when determining how much <sup>12</sup>additional service is to be added and for applying overall service limits to the calculation of the ill health pension

### **Regulation 29**

Amends paragraph (6) of regulation G11 (<sup>13</sup>Dependent Surviving civil partner's pension) so that if a member has nominated a civil partner to receive a dependent surviving civil partner's pension, any benefits that are commuted because of terminal ill health under the new ill health rules, will not be reduced to take account of any service that the member had before 6 April 1988.

### **Regulation 30**

Amends paragraph (3) of regulation G13 (Increased surviving civil partner's pension) so that if a member has elected to purchase an increased surviving civil partner's pension, any benefits that are commuted because of terminal ill health under the new ill health rules, will not be reduced to take account of the member's election.

Makes an amendment that applies to members who elected to purchase an increased surviving civil partner's pension before 28<sup>th</sup> February 2007 - If a member who made such an election is in or returns to

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<sup>12</sup> enhancement

<sup>13</sup> The member's civil partner must be permanently incapable of earning a living because of physical or mental infirmity and wholly or mainly dependent on the member

pensionable employment on or after 1<sup>st</sup> April 2008, the increase the member has elected to purchase will apply to any surviving partner pension that may be payable on the member's death

### **Regulation 31**

#### **Inserts new regulations –**

- G14 Surviving nominated partner's pension
- G15 Dependent surviving nominated partner's pension
- G16 Purchase of surviving partner's pension in respect of service before 6 April 1988
- G17 Increased surviving partner's pension

#### **G14 Surviving nominated partner's pension**

A member who is in pensionable employment on or after 1 April 2008 may nominate a partner to receive a pension after their death. The member and their nominated partner must jointly sign a declaration at the time the nomination is made.

If the member dies, the nominated partner must satisfy the scheme that for a period of at least two years the member and the nominated partner were:

- Living together as if husband and wife or as if civil partners
- Not prevented from marrying or entering into a civil partnership
- Financially interdependent or the partner was financially dependent on the member
- Not living with another person as if they were husband and wife or civil partners

A nomination may be revoked at any time and a new one made. If the nominated partner and the member marry or form a civil partnership the nomination is automatically cancelled.

#### **Amount of nominated partners pensions**

The nominated partner's pension is based on the member's pension for service after 5 April 1988 and is equal to half that amount<sup>14</sup>. If the member dies <sup>15</sup>'in service' or within a year of leaving with a deferred benefit, additional service may be applied to the members pension as if the member had retired under the new ill health arrangements with an upper tier pension on the day he died.

If the member dies whilst in receipt of a pension, the nominated partner's pension will be paid for three or <sup>16</sup>six months at the full rate of the member's pension. Following this, it will be paid at a rate equal to half the member's pension for service after 5 April 1988.

Nominated partner pensions are paid for life.

### **G15 Dependent surviving nominated partner's pension**

Before leaving the scheme, a member may apply for their nominated partner to receive a pension for any service the member has in the scheme before 6 April 1988. For an application to be accepted the nominated partner must be -

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

If an application is accepted, any lump sum payable to the member at retirement is reduced by an amount equal to 1.4 times the annual rate of the member's pension in respect of service before 6 April 1988. (This reduction is not made if the member's ill health benefits are commuted into a lump sum because of terminal ill health).

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<sup>14</sup> Calculated in the same way as a widower's pension is calculated

<sup>15</sup> In pensionable employment and paying contributions

<sup>16</sup> If there is also a dependent child

On the member's death, the nominated partner will receive a dependent's pension equal to half the member's pension for service before 1988. This will be paid in addition to the

surviving nominated partner pension that will be paid in respect of service after that date. (see regulation explanation for G14 above)

A dependent surviving nominated partner's pension is paid for life.

**G16 Purchase of a surviving partner's pension for in respect of service before 6 April 1988 and  
G17 Increased surviving partner's pension**

A member who is in <sup>17</sup>pensionable employment may elect to buy additional surviving partner cover for all or part of their service in the scheme before 6 April 1988. This option is available for 15 months starting from the amending regulations come into force.

Cover can be purchased for –

- a surviving widower
- a surviving civil partner
- a surviving nominated partner

and will apply to any such surviving partner pension payable on the member's death.

A member can purchase cover for all of their service before 6 April 1988 or any number of complete years of service before that date. An election must be made in writing and may only be made by a member who is in sound health for their age. Once an election is made it cannot be cancelled

There are three methods of payment available and the cost will depend on which method is chosen –

The methods are –

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<sup>17</sup> Apart from re-employed pensioners (members who have retired on ill health grounds and re-joined the scheme)

- By taking a reduced lump sum retiring allowance<sup>18</sup>
- By making a single lump sum payment to buy an unreduced lump sum
- By paying AVCs in regular payments until retirement to purchase an unreduced lump sum

The surviving partner's pension will be based on half the member pension for the service purchased and half the pension for the member's service after 5 April 1988.

**The Final Heads of Agreement:**

**Paragraphs 31, 33 and 34**

**Changes to Part H 'Child Allowance'**

**Regulation 32**

Amends regulation H1 (dependent child) so that the definition of a dependent child now includes references to children of nominated partners

Where a child allowance is paid in respect of a member who has pensionable service in the scheme on or after 1<sup>st</sup> April 2008 -

- it will be paid until the child reaches age 23 (regardless of whether full time education has continued) and
- may continue after that age if a child is incapable of earning a living because of permanent physical or mental infirmity from which he was suffering at the time the member died

**Regulation 33**

Amends regulation H3 (child allowance when member dies in pensionable employment) (Child Allowances) as a consequence of the introduction of nominated partner pensions.

Further amendments change the amount of child allowance payable if a member dies in service on or after 1 April 2008 to a proportion of the upper tier ill health pension the member would have been

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<sup>18</sup> If a member opts to take a reduced lump sum retiring allowance, but at retirement benefits are commuted because of terminal ill health, no reduction is made to the lump sum paid

entitled to on the day he died. (The minimum amount of service used to calculate the member's pension is 10 years.)

If a <sup>19</sup>surviving partner pension is paid for an initial period of six months at salary rate, any child allowance in respect of a child who is dependent on the recipient, will be paid from the day after the date of the member's death (instead of after the salary payment ends.)

#### **Regulation 34**

Amends regulation H4 (child allowance when member dies after pension becomes payable) as a consequence of the introduction of nominated partner pensions.

Makes further amendments to the minimum service that will be used to calculate the member's pension (on which the child allowance will be based) - This will be a minimum of 10 years service if the member retired on or after 1 April 2008.

If a member's upper tier ill health pension has been replaced by a lower tier pension, any child allowance that becomes payable during the one year protection period will be based on the member's original upper tier pension.

#### **Regulation 35**

Amends regulation H5 (Child allowance when member dies with preserved pension) as a consequence of the introduction of nominated partner pensions.

Makes further amendments to the minimum service that will be used to calculate the member's pension (on which the child allowance will be based) - This will be a minimum of 10 years service if the member left the scheme on or after 1 April 2008

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<sup>19</sup> Widow's, widower's, surviving civil partner's and surviving nominated partner's pensions

**Regulation 36** Amends regulation H7 (Dependent child not being maintained by a surviving parent or spouse or civil partner of a parent) as a consequence of the introduction of nominated partner pensions

**The Final Heads of Agreement:** **Paragraph 5**

### **Changes to Part J ‘Allocation’**

**Regulation 37** Amends regulation J1 as a consequence of the new service limits for members who are not special class officers. Members who are still in pensionable employment may now allocate part of their pension at any time after completing 45 years service.

### **Changes to Part K ‘Contracting Out’**

**Regulation 38**  
**Regulation 39** Makes technical changes to reflect current legislation in respect of schemes that contract their membership out of the State Scheme

**Regulation 40** Amends regulation L1 (Early leavers returning to pensionable employment) as a consequence of the implementation of new ill health retirement provisions (E2A) - Members retiring on ill health grounds who have had a break of over one year during their scheme membership are paid the better of:

- two separate pensions (without ill health enhancements)
- one pension for all service (with any enhancement due under the ill health retirement regulations)

### **Changes to Part M Member’s right to a transfer or buy out**

**Regulation 41** Makes technical changes to this part to reflect the requirements of the Pension Schemes Act 1993 and the technical changes made to Part K – Contracting Out. No other substantive changes have been made to Part M.

### **Changes to Part N ‘Transfers from other pension arrangements’**

#### **Regulation 42**

Amends regulation N1 (Member’s right to transfer accrued benefits to the scheme) to take account of the technical changes made to Part K – Contracting Out

### **Changes to Part P (Members absent from work)**

#### **Regulation 43**

Amends regulation P3 (Absence for reasons other than illness or injury) to bring provisions covering scheme membership during authorised unpaid leave (including career breaks) into line with the AfC

Members may choose to pay contributions for the first six months during a period of authorised unpaid leave. If they so choose, contributions must also be paid by their employer. Thereafter, a member may choose to pay their own and their employer’s share of contributions for a further period of four years and six months.

### **Changes to Part Q ‘Right to buy additional service and unreduced retirement lump sum**

#### **Regulation 44**

**Closure of the full cost added years facility** - Amends regulation Q1 (Right to buy additional service) to reflect transitional arrangements for the withdrawal of the facility to purchase full cost added years. Members who request a quotation before 31 March 2008 will have one further opportunity to buy added years by instalments. The contract must start from their next birthday (falling between 1 April 2008 and 31 March 2009). The facility will be closed to new purchases from 1 April 2009.

No further applications to purchase additional service by a single payment will be accepted from 1 April 2008.

**Retention of the half cost added years facility** - The facility to purchase service before 6 April 1978 for which a refund has been paid

will continue. Such a purchase may be made by instalments, single payment or a combination of those two methods.

### **New Ill Health Retirement rules and Nominated Partner Pensions**

Further amendments to this regulation have been made as a consequence of the introduction of new ill health retirement rules and nominated partner pensions.

- Additional service purchased does not count for the purposes of assessing whether a member has enough service to qualify for a new ill health retirement pension
- If a contract to buy additional service was taken out before 6 April 1988, the service bought will not count for the purposes of calculating any nominated partner pension.

#### **Regulation 45**

Amends regulation Q2 (Right to buy an unreduced retirement lump sum) to remove an incorrect reference to members who are in a civil partnership

#### **Regulation 46**

Amends regulation Q3 (Paying for additional service by single payment) so that the facility to pay by this method for full cost added years is removed and is retained for half cost purchases.

#### **Regulation 47**

Amends regulation Q4 (Paying for an unreduced retirement lump sum by single payment) as a consequence of the introduction of nominated partner pensions.

A member who applies for a partner to receive a dependent nominated partner's pension and who wishes to purchase an unreduced lump sum retiring allowance as a consequence must do so within 12 months of making that application.

## **Regulation 48**

Amends regulation Q7 (Part payment for additional service or unreduced retirement lump sum) as a consequence of the new ill health retirement rules

- Additional contributions will be refunded if a contract to make a purchase has been in place for less than twelve months before the member retires under new ill health rules
- All additional contributions will be deemed to have been paid if the contract has been in place for more than twelve months before the member retires under new ill health rules.

## **Regulation 49**

**Inserts new provisions covering the purchases of Additional Pension (AP) – Regulations Q8 – Q17**

### **Q8 Option to pay additional periodical contributions to purchase additional pension**

Members who are in pensionable employment may take out an option to purchase additional pension. The option may cover

- An increase to the member's pension, or
- An increase to the member's pension and any pension that may become payable to a surviving partner and dependent child also.

The minimum amount of AP that may be bought is £250. A member may opt to buy more in further blocks of £250 up to a maximum<sup>20</sup>£5000.

Members who opt to pay for AP by making '<sup>21</sup>periodical contributions' must select a period of time over which they will make all the contributions - This is called the 'option period'.

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<sup>20</sup> This maximum includes any amount bought by the member and paid for by a lump sum payment and any amount bought on the member's behalf by an employer

The option period can be any number of whole years between 1 and 20, but cannot end later than the member's 60<sup>th</sup> or 65<sup>th</sup> birthday. Even if the option period is due to finish before the member reaches age 60 or 65, the member must choose one of these ages as being the age when the amount of AP purchased will be payable in full.

### **Q9 Effect of member being absent or leaving and rejoining the Scheme during the contribution option period**

#### **Absences**

Members may continue to pay additional contributions to purchase AP whilst absent from work as long as they are paying main scheme contributions. However, if contributions to the main scheme stop, the additional contributions must stop too. Additional contributions may start again on the same terms if the member resumes paying main scheme contributions again within a year.

#### **Breaks in pensionable employment**

Members may resume paying for AP under the original terms following a break in employment as long as

- the break is not more than 12 months
- contributions have not been refunded for service before the break

If the break is more than a year, the member may take out a new option to purchase AP but cannot continue to pay contributions under their original option.

### **Q10 Members option to pay lump sum contributions to purchase additional pension**

A member who is in pensionable employment may also buy AP by paying a single lump sum additional contribution. The limit and related

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<sup>21</sup> Periodical contributions are deducted from salary by the employer and must be paid to the scheme by the 19<sup>th</sup> day of each month

requirements on the amounts that may be purchased are the same as those where the purchase is made by periodical payments.(See Q8)  
The payment may buy additional pension for the member only or additional pension for the member and any surviving partner or dependent child.

The payment must be made within a period of one month from the date that the scheme accepts the option either by deduction from salary or by direct payment to the scheme.

### **Q11 Payment of additional lump sum contributions by employing authority**

An employer may make a lump sum payment to buy an amount of additional pension for a member who is in pensionable employment. The limits and related requirements are the same as those that apply where the payment is made by the member (See Q10 and Q8 above)  
The payment may buy additional pension for the member only or additional pension for the member and any surviving partner or dependent child.

### **Note on overall limits and cost**

The overall limit of £5000 includes all purchases made by both periodical and single payment by the member and by single payment by the employer.

The Scottish Ministers may vary this limit and may also vary the cost of the purchase. Any variations to cost will affect new options taken out in the scheme year in which the cost is varied and will affect ongoing purchases from the beginning of the next scheme year.

### **Q12 Exercise of options under regulations Q8, Q10 and Q11**

An option must be exercised by a member or an employer in writing and may not be made if the member is absent from work.

An option takes effect from:

- the date the employer receives the member's option in writing and
- the date the scheme receives an employer option in writing

The Scottish Ministers may refuse to accept an option and must do so if they are not satisfied that:

- there is no reason why the member's health should prevent the completion of an option to pay by periodical payments, or
- the member is in good health if the option is for a single lump sum contribution

An option will be cancelled if a lump sum payment is not received by the date on which it is due.

### **Q13 Cancellation and cessation of options under regulation Q8**

A member may cancel an option in writing. Payments will stop from the next payment period after the employer received the member's notification.

An option may be cancelled by the scheme in writing if it appears that the overall maximum (£5,000) will be exceeded or the amount of AP the member has opted to purchase would not result in any increase to that member's pension.

### **Q14 Effect of payment of additional contributions under this Part**

Member's pension - full amount of AP has been bought

The member's pension is increased by the full amount of the AP, if

- all the contributions under an option to make periodical payments are made or a lump sum payment is received and
- the member is retiring on or after the age (60 or 65) that was selected for the full amount to become payable

### **Surviving partner pension – full amount of AP has been bought**

If the member opted to increase any surviving partner and child allowance -

- Death in service - 37% of the amount of AP that the member would have been entitled to on the date of death is added to the surviving partner pension
- Death after pension becomes payable – 37% of the amount of AP included in the member's pension is added to the surviving partner's pension

### **Child Allowance – full amount of AP has been bought**

- Death in service - the full amount of AP that the member would have been entitled to on the date of death is added to member's pension. The child allowance will be equal to the <sup>22</sup>appropriate fraction of the member's increased pension.
- Death after pension becomes payable – the child allowance is based on the member's pension including the amount of AP bought. The child allowance will be equal to the <sup>23</sup>appropriate fraction of that increased pension.

### **Q15 Effect of death or early payment of pension after option exercised under regulation Q8, Q10 or Q11**

If the member dies within 12 months after exercising an option to buy AP, contributions will be refunded to the member's personal

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<sup>22</sup> If there is a surviving partner -  $\frac{1}{4}$  if only one child and  $\frac{1}{2}$  if there are two or more children  
If no surviving partner –  $\frac{1}{3}^{\text{rd}}$  if only one child and  $\frac{2}{3}^{\text{rd}}$ s if there are two or more children

<sup>23</sup> If there is a surviving partner -  $\frac{1}{4}$  if only one child and  $\frac{1}{2}$  if there are two or more children  
If no surviving partner –  $\frac{1}{3}^{\text{rd}}$  if only one child and  $\frac{2}{3}^{\text{rd}}$ s if there are two or more children

representatives. Contributions will be returned to the employer if the employer exercised the option.

If the member dies more than 12 months after exercising the option (or the employer exercising the option), credit for the full amount of AP will be given

If the member becomes entitled to an ill health pension within 12 months after exercising an option to buy AP contributions will be refunded to the member. Contributions will be returned to the employer if the employer exercised the option

If the member becomes entitled to an ill health pension more than 12 months after exercising an option to buy AP (or the employer exercising the option) credit for the full amount of AP will be given.

If the member becomes entitled to any other pension under the scheme before the age that was chosen for the full amount to be payable, the AP will be subject to an actuarial reduction.

#### **Q16 Effect of part payment of periodical contributions**

If the member does not pay the full amount of the contributions he elected to pay, he will receive an amount of AP that is proportionate to the full amount.

#### **Q17 Revaluation of increases bought under options: members' pensions**

This regulation provides for the amount of basic AP bought, to be updated in line with the Retail Prices Index (RPI) between the date the AP option commenced and a point <sup>24</sup>2 months before payment with main scheme benefits.

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<sup>24</sup> the latest RPI factors that can be used without delaying payment

Where main scheme benefits have an earlier date for pensions increase purposes than AP (e.g. because the members last year pay is not their best) the regulation also provides for AP uprating to be adjusted, to prevent 'double indexation' when benefits go into payment.

**The Final Heads of Agreement:**

**Paragraphs 18 and 19**

**Changes to Part R 'Special Provisions for certain members'**

**Regulation 50**

Amends regulation R3 (8) (a) (Mental health officers) as a consequence of the introduction of new ill health retirement rules. Mental health officer doubled service does not count when calculating the service a member would have been entitled to if he had staying in employment until a certain age.

**Regulation 51**

Amends regulation R4 (3) (members doing more than one job) as a consequence of the upper pensionable age changing to 75. Benefits are not payable until a member leaves all employments or reaches age 75.

**Regulation 52**

**Amends regulation R8 (Members whose earnings are reduced)**

A member who is over minimum pension age may make one election to preserve his benefits up to the date his pay (whole time comparable pay for part-time membership) reduces if the following is certified by an employer:

- Pay is reduced by at least 10% for 1 year or more
- Pay was not reduced for any reason during the previous year
- The reduction is due to the member stepping down into a role that is not as demanding and of lesser responsibility

- An election is made in writing within 15 months of the member's pay reducing.

If the member retires on ill health grounds any additional service attaches to the period after pay reduced so that benefits for it are calculated on final pensionable pay.

**The Final Heads of Agreement:**

**Paragraph 30**

**Changes to Part S 'Members who return to NHS employment after pension becomes payable**

**Regulation 53**

Amends regulation S1 (Suspension of pension on return to NHS employment) as a consequence of the change of the scheme's upper pensionable age to 75

If a pension is suspended it again becomes payable at age 75 unless, before then, the member reduces hours worked to less than 16 for at least a month.

**Regulation 54**

Amends regulation S2 (Reduction of pension on return to NHS employment to take account of new abatement rules that apply to pensions that come into payment **on or after 1 April 2008**

Pensions that come into payment on or after 1 April 2008 under the new redundancy arrangements will not be subject to abatement.

The following pensions will be subject to the new abatement rules:

- Ill health pensions (E2 and E2A)
- Old Style redundancy pensions (Transitional arrangements)(E3)
- Early payment of preserved benefits on health grounds (E6(2)(b))
- Interest of the Efficiency of the Service pensions (E3A(2)(d(ii)))

**New comparison calculation**

The new comparison will still compare pre retirement earnings with new earnings (including pension) but in the case of the latter only part of the pension will be taken into account. This will be the part that is over and above the amount the pensioner would have got had the pension been actuarially reduced for retirement before normal benefit age.

Where new earnings (including the relevant part of the pension) are greater than pre-retirement earnings, the pension will be reduced. The reduction cannot be more than the value of the part of the pension that is over and above the actuarially reduced amount.

### **Old Abatement rules**

The old rules will continue to apply to pensions that came into payment before 1 April 2008.

## **The Final Heads of Agreement**

### **Paragraphs 28 and 29**

#### **Regulation 55**

Inserts new regulation <sup>25</sup>S3A (Benefits in respect of pensionable employment after pension becomes payable under regulation E2A)

New regulation S3A covers pensioners who are re-employed in the NHS under age 50 and are entitled to re-join the pension scheme.

These are members who -

- Were awarded a lower tier pension
- Were originally awarded an upper tier pension and have become entitled to re-join the scheme because it is more than one year since they first became re-employed in the NHS<sup>26</sup>

Members will receive separate benefits for their service during their re-employment based on final pensionable pay when re-employment ends.

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<sup>25</sup>Current regulation S3 will continue to apply as now to pensioners who are re-employed under age 50 following the payment of an old style ill health pension under regulation E2

<sup>26</sup> Members in this group will be receiving a substituted tier 1 pension in place of their original tier 2 pension and will be outside the time limit within which they may apply for re-instatement of their tier 2 pension.

A member who again meets the qualifying criteria for either a lower tier or upper tier ill health pension will also receive a separate pension based on service and pay during re-employment. The pension will be calculated according to whichever of the lower tier or upper tier methods apply. If the member has worked part-time during re-employment, any enhancements due will be adjusted according to the member's working pattern during his re-employment.

### **Regulation 56**

Amends the heading of regulation S4 (Benefits on death in pensionable employment after pension becomes payable), to "S4 (Benefits on death in pensionable employment after pension becomes payable under regulation E2)"

Amends regulation S4 - This regulation covers the benefits that are payable if a member who retired under existing ill health rules (regulation E2), re-joins the scheme and dies 'in service'

The regulation covers the two death benefit components-

- benefits paid in respect of the pension already in payment (the members old style ill health pension for previous service), and
- benefits paid in respect of the member's re-employment (the member's later service)

### **Changes**

The regulation has been amended to take account of new provisions for surviving 'nominated' partner pensions.

After 1 April 2008 the initial <sup>27</sup>surviving partner pension for the later service will be paid for 6 months at the member's pensionable pay rate, regardless of any child allowances that may be payable.

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<sup>27</sup> Widows, widowers, civil partners and nominated partners

If a child allowance is payable in respect of a child who is dependent on the surviving partner, the <sup>28</sup>ongoing rate of child allowance for the member's later service will be paid from the day following the member's date of death and until the child is 23.

If there is a dependent child who was also dependent on the member when his previous service ended and at the time of death, the minimum service to be used to calculate the member pension on which the child allowance is based (for both the previous and the later service) is 10 years.

No other changes have been made to the benefits payable in respect of the member's previous service (based on the old style ill health pension in payment) or later service (based on the member's pension for the service that has accrued)

### **Regulation 57**

Inserts new regulation S4A (Benefits on death in pensionable employment after pension under regulation E2A becomes payable)

This regulation covers the benefits that are payable if a member who retired under new ill health rules (regulation E2A), re-joins the scheme and dies 'in service'

The regulation also covers two death benefit components-

- benefits paid in respect of the pension already in payment (this will be the tier 1 pension for previous service), and
- benefits paid in respect of the member's re-employment (based on a tier 2 pension for the member's later service)

Benefits for the member's later service are:

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<sup>28</sup> The ongoing rate is the relevant fraction of the member's pension for his re-employed service; the fraction depends on the number of dependent children.

- A lump sum death benefit equal to five times the pension the member would have received if he had retired with a tier 2 pension for his later service on the day he died
- For qualifying partners, an initial surviving partner pension paid at pensionable pay rate for 6 months
- Following which, a surviving partner pension equal to half the member's tier 2 pension – paid for life
- Child allowance for any qualifying child based on the member's tier 2 pension paid until the age of 23

If there is a dependent child who was also dependent on the member when his previous service ended and at the time of death, the minimum service to be used to calculate the member pension on which the child allowance is based (for both the previous and the later service) is 10 years.

The benefits for the member's previous service are based on the tier 1 pension that is in payment. The rates are unchanged.

### **Changes to Part T 'General rules about benefits'**

#### **Regulation 58**

Amends regulations T2A (Deduction of tax: further provisions) - This is a technical change made as a consequence of the removal of the earnings cap from 1 April 2008. Whilst the cap continued to apply, authority to reduce benefits in respect of which the scheme administrator has paid a Lifetime Allowance Charge was provided by <sup>29</sup>HMRC regulations. This authority has now been incorporated into scheme regulations.

### **Changes to Part U 'Administrative Matters'**

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<sup>29</sup> The Pension Schemes (Modification of Rules of Existing Schemes) Regulations 2005

## Regulation 59

### Cost sharing

It was agreed that NHS pension scheme members across the UK should pay the same contribution rates where they receive the same benefits and that the member contribution rates should be set by what members in England and Wales pay.

Regulation U4 of the National Health Service Pension Scheme Regulations (The E&W regulations), which takes into account both an agreed employers contribution cap and how shareable increases and decreases in scheme costs are calculated, makes provision for member contribution rates and/or scheme benefits to be changed if shareable scheme costs increase or decrease.

The amendment to the Scottish regulations is made at regulation 59 and introduces a new regulation U4. The regulation confirms that the valuation report will disclose a recommended contribution rate and an expected contribution yield from member contributions. This regulation also takes into account changes in the member rates being introduced in England and Wales as part of the agreement to maintain UK wide member contribution rates and/or scheme benefits.

Regulation U4(2) confirms that where a change has been made to member benefits and/or contribution rates in England and Wales then the Scottish valuation report will provide a second recommended contribution rate and second expected contribution yield from member contributions also taking into account those changes.

Regulation U4(3) provides the calculation to determine the level of employer contribution rate that should be applied where a change has been made to member benefits and/or member contribution rates in England and Wales and the same changes have also been made in Scotland.

Regulation U(4) confirms that where no such changes are made to the member's contribution rate and/or benefits then the employers contribution rate is determined using the figures provided in the report outlined in (1).

Regulation U4(6) provides for a review of the above process if the employer rate in Scotland diverges from that in England and Wales by more than either plus or minus one per cent.

### **Amendment of Schedule 1 (Medical and Dental Practitioners)**

#### **Regulation 60**

Amends provisions contained in Schedule 1 of the regulations.

**Amends paragraph 2A** (Membership: Locum Practitioners) so that an outdated provision in respect of Locum practitioners is removed

**Amends paragraph 8(2)** (Limit on pensionable earnings – dental practitioners) so that the limit on earnings ceases to apply after 1<sup>st</sup> April 2008

**Amends paragraph 9(5)** (Officer service treated as practitioner service) so that the calculation of total officer and total practitioner service does not include any additional service due in respect of an ill health pension awarded under new regulation E2A

**Amends paragraph 10** (Contributions to the scheme) so that contributions from 1 April 2008 will be based on a tiered rate depending on the level of pensionable earnings.

#### **Thresholds, contribution percentages and earnings to be used for deciding which tier applies**

The arrangements cover the scheme year 1 April 2008 to 31 March 2009. The pay thresholds and contribution rates used to identify the amount payable by practitioners and non-GP providers in that year will

be drawn from one of 3 different tables, depending on the year in which their pensionable earnings were recorded or estimated. The earnings and table used to decide which tier a medical or dental practitioner or a non-GP provider should be allocated to for 2008-9, will depend on their circumstances.

Table 1 – 2007-2008

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%

Table 2 2006-2007

Up to £19,165	5%
£19,166 to £63,416	6.5%
£63,417 to £99,999	7.5%
£100,000 to any higher amount	8.5%

Table 3 2005-2006

Up to £18,967	5%
£18,698 to £61,869	6.5%
£61,870 to £97,560	7.5%
£97,561 to any higher amount	8.5%

**Medical practitioner or non-GP provider in pensionable employment at any time during the 2007-8 scheme year and on 1 April 2008**

A medical practitioner or non-GP provider who was in pensionable employment throughout the 2006-7 year and has certified their pensionable earnings for that year to the host Trust or Board, will have

their contribution rate set according to the pensionable earnings they received in that year, using table 2.

A medical practitioner or non-GP provider who has not certified their pensionable earnings for the 2006-7 year or who did not work throughout that year but has certified their pensionable earnings for the 2005-6 year to the host Trust or Board and was in pensionable employment throughout the 2005-6 year, will have their contribution rate set according to the pensionable earnings they received in that year, using table 3.

A medical practitioner or non-GP provider who:

- was not in pensionable employment for any part of the 2007-8 scheme year
- was employed for part of the year but ceased before 31 March 2008
- has not certified their pensionable earnings for the 2005-6 year
- has certified their earnings for the 2005-6 year but did not work throughout the year, or
- commenced work for the first time in the 2008-9 scheme year

will have their contribution rate set according to the amount they and the host Trust or Board estimate will be their pensionable earnings for the 2008-9 year, using table 1.

A medical practitioner or non-GP provider who commences such pensionable employment for the first time in the 2008-9 scheme year but was in pensionable employment as an officer on 1 April 2008 and has since ceased such employment, will have their contribution rate set according to the amount of pensionable earnings on which they were allocated to a contribution tier in accordance with regulation D1.

**Dental practitioner in pensionable employment throughout the 2007-8 scheme year and on 1 April 2008**

A dental practitioner who was in pensionable employment throughout the 2006-7 scheme year will have their contribution rate set according to their pensionable earnings for that year, using table 2.

A dental practitioner who was in pensionable employment for only part of the 2006-7 year will have their contribution rate set according to their pensionable earnings for the part-year, uprated to an annual figure, using table 2.

A dental practitioner who commences pensionable employment as a dental practitioner during the 2007-8 scheme year will have their contribution rate set according to their estimated pensionable earnings for the days they were employed in that year, uprated to an annual figure, using table 1.

A dental practitioner who commences pensionable employment during the 2008-9 scheme year will have their contribution rate set according to their estimated pensionable earnings for the year, uprated where necessary to an annual figure, using table 1

A dental practitioner who commences such work for the first time in the 2008-9 scheme year and was in pensionable employment as officer on 1 April 2008 but has since ceased such employment, will have their contribution rate set according to the amount of pensionable earnings as an officer on which they were allocated to a contribution tier in accordance with regulation D1.

the host Trust or Board

**Amends paragraph 10(3)(a)** to reflect new service limits of 45 years overall for members who are not special class officers.

**Amends paragraph 11(2)** (Normal retirement pensions) so that 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.

**Amends paragraph 12** (Early retirement pension (ill Health)) so that the calculation of an ill pension for a member who is or has been a practitioner described in that paragraph also applies if the pension is awarded under new regulation E2A

**Inserts a new paragraph 16 B** (Increased dependent surviving nominated partner's pension)

Modifies regulation G15 so that if a member applies for a dependent surviving nominated partner's pension, 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 6 April 1988 plus the relevant daily proportion for each additional day.

**Inserts a new paragraph 16C** (Increased surviving partner pension)

Modifies regulation G17 so that if a member elects to purchase an increased surviving partner's pension 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 6 April 1988 plus the relevant daily proportion for each additional day.

**Replaces paragraph 17** (Child allowance—member dies in pensionable employment)

The addition of new paragraph (b) is a consequential amendment following amendments that will become effective in December 2007.

Regulation H3 has been amended so that ‘in service’ benefits are payable when a member is still employed but is not permitted to pay contributions because the scheme service limits have been breached. This amendment modifies regulation H3 (9) so that the reference there 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.

**Omits paragraph 18(6)** – that contains obsolete provisions relating to dental pilot schemes.

**Inserts new paragraph 22A** – to modify references to pensionable pay in regulation S4 and S4A (Benefits on death in pensionable employment after a pension has been paid under E2 or E2A respectively)

Where an initial surviving partner pension or child allowance is payable for the member’s later service, references to ‘pensionable pay’ will be read as references to the average rate of the member’s pensionable earnings during the last complete quarter before the member died.

#### **Amendment of Schedule 2A (Pension Sharing on Divorce)**

#### **Regulation 61**

Makes amendments from 1 April 2008 to take account of new regulation F5 that reflect new provisions for nominated partner pensions and the extended death benefit lump sum nomination facility. (nomination of more than one person to receive the lump sum on death).