
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 364

The National Health Service Superannuation Scheme
etc. (Miscellaneous Amendments) (Scotland) Regulations 2011

PART 3

AMENDMENT OF THE NATIONAL HEALTH SERVICE
PENSION SCHEME (SCOTLAND) REGULATIONS 2008

Amendments to the National Health Service Pension Scheme (Scotland) Regulations 2008

15. The National Health Service Pension Scheme (Scotland) Regulations 2008(1) are amended in accordance with this Part.

Amendment of regulation 1.B.1

16. In regulation 1.B.1 (actuarial reports and accounts)—
- (a) in paragraph (1)(b), for “1995” substitute “2011”; and
 - (b) in paragraph (4)(a), for “1995” substitute “2011”.

Amendment of regulation 2.A.1

17. In regulation 2.A.1 (interpretation: general), in paragraph (1)—
- (a) omit the definition of “the 1995 Regulations”;
 - (b) for the definition of “the 1995 Section” substitute—
““the 1995 Section” means the Section of the scheme, the rules of which are set out in the National Health Superannuation Scheme (Scotland) Regulations 2011;”;
 - (c) after the definition of “2008 Section Optant” insert—
““the 2011 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”;
 - (d) omit the definition of “dental list”;
 - (e) for the definition of “dentist” substitute—
““dentist” means a dental practitioner registered in the register of dentists;”;
 - (f) for the definition of “the scheme” substitute—
““the scheme”, except where the context otherwise requires, means the National Health Service Superannuation Scheme for Scotland, the rules of which are set out in these Regulations and the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”.

Amendment of regulation 2.A.2

18. In regulation 2.A.2 (meaning of “pensionable service”), in paragraph (8), for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 2.A.5

19. In regulation 2.A.5 (meaning of “qualifying service”), in paragraph (1)—

- (a) in sub-paragraph (d), after “regulation 2.A.6;” omit “and”;
- (b) in sub-paragraph (f), in the full out—
 - (i) for “1995 Regulations” in both places where it occurs substitute “2011 Regulations”; and
 - (ii) after “member left that Section;” omit “and”; and
- (c) after sub-paragraph (g), insert—
 - “(h) in the case of a Waiting Period Joiner (as referred to in regulation 2.L.1(2)), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section; and
 - (i) in the case of a person who is eligible to join this Section of the scheme by virtue of regulation 2.B.1(5)(e), (g) or (h) (eligibility: general), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section.”.

Amendment of regulation 2.B.1

20. In regulation 2.B.1 (eligibility: general), in paragraph (5)—

- (a) in sub-paragraph (d)(i), for “1995 regulations” substitute “2011 Regulations”;
- (b) in sub-paragraph (d)(ii), for “1995 regulations” substitute “2011 Regulations”;
- (c) in sub-paragraph (f)(iv)(aa), for “1995” substitute “2011”;
- (d) in sub-paragraph (g), for “1995 Regulations” substitute “2011 Regulations”;
- (e) in sub-paragraph (h), for “1995 Regulations” substitute “2011 Regulations”;
- (f) in sub-paragraph (i)(i), for “1995” substitute “2011”;
- (g) in sub-paragraph (i)(iii), for “1995” substitute “2011”;
- (h) in sub-paragraph (j)(i), for “1995” substitute “2011”; and
- (i) in the full out—
 - (i) for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”; and
 - (ii) for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 2.B.1A

21. In regulation 2.B.1A (eligibility: transitional)—

- (a) in paragraph (3)—
 - (i) for “1995” substitute “2011”;
 - (ii) in sub-paragraph (b), for “E2A(3)(a)” substitute “E3(3)(a)”;
 - (iii) in sub-paragraph (c), for “E3A” substitute “E7”; and
 - (iv) in sub-paragraph (d), for “E5” substitute “E11”;
- (b) in paragraph (4)—

- (i) for “1995” substitute “2011”;
- (ii) in sub-paragraph (a), for “(ill health)” substitute “on ill health grounds (pre 1st April 2008)”; and
- (iii) in sub-paragraph (b), for “E3” substitute “E6”;
- (c) in paragraph (5), for “E2A(3)(b)” substitute “E3(3)(b)”;
- (d) in paragraph (6)—
 - (i) for “E2A(3)(a) of the 1995” substitute “E3(3)(a) of the 2011”;
 - (ii) for “E2B(3)” substitute “E4(3)”; and
 - (iii) for “E2A” substitute “E3”;
- (e) in paragraph (7)—
 - (i) in sub-paragraph (a), for “1995” substitute “2011”;
 - (ii) in sub-paragraph (b), for “1995” where it first occurs substitute “2011”; and
 - (iii) in sub-paragraph (b)(i), for “1995 Regulations” substitute “2011 Regulations”; and
- (f) in paragraph (8)—
 - (i) in sub-paragraph (b), for “1995 Regulations” substitute “2011 Regulations”; and
 - (ii) in sub-paragraph (c)—
 - (aa) for ““E2A”, “E2B(3)”, “E3”, “E3A”, “E3A(3)(a)”, “E3A(3)(b)”, or “E5”” substitute ““E3”, “E4(3)”, “E6”, “E7”, “E7(3)(a)”, “E7(3)(b)” or “E11””; and
 - (bb) for “1995” substitute “2011”.

Amendment of regulation 2.C.1

- 22.** In regulation 2.C.1 (contributions by members), in paragraph (8), for “(3)” substitute “(3A)”.

Amendment of regulation 2.D.8

23. In regulation 2.D.8 (early retirement on ill health (active members and non contributing members)), in paragraph (17), in the definition of “permanently”—

- (a) in sub-paragraph (b)(i), for “E2A(2)(b)(i) of the 1995” substitute “E3(2)(b)(i) of the 2011”;
- and
- (b) in sub-paragraph (b)(ii), for “E2A(2)(b)(ii) of the 1995” substitute “E3(2)(b)(ii) of the 2011”.

Amendment of regulation 2.D.15

24. In regulation 2.D.15 (option for members in serious ill health to exchange whole pension for lump sum)—

- (a) in paragraph (4), omit “and before reaching the age of 75”; and
- (b) in paragraph (5), omit “and before reaching the age of 75”.

Amendment of regulation 2.E.9

25. In regulation 2.E.9 (meaning of “dependent child”), in paragraph (1)(c)(i), for “whilst the deceased was” substitute “before the deceased ceased to be”.

Amendment of regulation 2.E.10

26. In regulation 2.E.10 (amount of children’s pension under regulation 2.E.8: deceased active members and deceased non contributing members), in paragraph (4), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.E.11

27. In regulation 2.E.11 (amount of children’s pension under regulation 2.E.8: deceased pensioner members), in paragraph (3), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.E.12

28. In regulation 2.E.12 (amount of children’s pension under regulation 2.E.8: deceased deferred members), in paragraph (3), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.E.16

29. In regulation 2.E.16 (lump sum benefits on death: introduction), for paragraph (1) substitute—

- “(1) A lump sum is payable in accordance with this Chapter if—
 - (a) a member, a recent leaver or a deferred member dies before reaching the age of 75; or
 - (b) a pensioner member, on or after reaching the age of 75, dies except in the circumstances described in regulation 2.E.20A.”.

Amendment of regulation 2.E.17

30. In regulation 2.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 2.D.5 employments)), in paragraph (1), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.E.19

31. In regulation 2.E.19 (amount of lump sum: dual capacity members: members with pensions under regulation 2.D.5), in paragraph (2), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.E.20A

32. In regulation 2.E.20A (pension payable when member dies on or after reaching age 75), in paragraph (1)—

- (a) after “If” insert “, on or before 5th April 2011,”; and
- (b) for “dies” substitute “has died”.

Amendment of regulation 2.E.21

33. In regulation 2.E.21 (payment of lump sum or pensions on death), in paragraph (13), for “1995” substitute “2011”.

Amendment of regulation 2.F.6

34. In regulation 2.F.6 (calculating amounts of transfer value payments), in paragraph (4)(b)(iii) (bb), for “1995” substitute “2011”.

Amendment of regulation 2.F.17

35. In regulation 2.F.17 (transfers across from the 1995 Section)—

- (a) in paragraph (1)—
 - (i) for “(waiver of transfer)” substitute “(member’s right to transfer a preserved pension to the 2008 Section)”; and
 - (ii) for “1995 Regulations” substitute “2011 Regulations”; and
- (b) in paragraph (2)(b), for “1995” substitute “2011”.

Amendment of regulation 2.H.6

36. In regulation 2.H.6 (meaning of “previous pay”: members with concurrent employments), in paragraph (2), for “2.H.(4)” substitute “2.H.5(4)”.

Amendment of regulation 2.J.8

37. In regulation 2.J.8 (deduction of tax)—

- (a) in paragraph (4), for “when” substitute “before”; and
- (b) after paragraph (4) insert—
 - “(5) Paragraph (6) applies if—
 - (a) a lump sum is payable on the death of a pensioner member in accordance with paragraph (2) of regulation 2.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 2.D.5 employments)); and
 - (b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member’s death.
 - (6) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 206 of the 2004 Act (special lump sum benefits charge) from the lump sum.
 - (7) Paragraph (8) applies if—
 - (a) an active member, a non-contributing member or a pension credit member exercises the option in paragraph (1) of regulation 2.D.15 (option for members in serious ill health to exchange whole pension for lump sum) to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of that regulation; and
 - (b) that lump sum payment is to be made to a member who has reached the age of 75.
 - (8) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 205A of the 2004 Act (serious ill-health lump sum charge) from the lump sum.”.

Amendment of regulation 2.K.1

38. In regulation 2.K.1 (application of Chapter 2.K)—

- (a) in paragraph (1)(a), for “1995” substitute “2011”;
- (b) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”; and
- (c) in paragraph (1)(c)(i), for “E3 or E3A of the 1995” substitute “E6 or E7 of the 2011”.

Amendment of regulation 2.K.2

39. In regulation 2.K.2 (options for 1995 Section members to join the 2008 Section under Chapter 2.K.)—

- (a) in paragraph (9)(b), for “1995” substitute “2011”;
- (b) in paragraph (9A)(a), for “(3) or paragraph (4) of regulation D1 of the 1995” substitute “(26) or paragraph (27) of regulation D1 of the 2011”; and
- (c) in paragraph (12)—
 - (i) for “E2A” and substitute “E3”; and
 - (ii) for “1995” in both places where it occurs substitute “2011”.

Amendment of regulation 2.K.3

40. In regulation 2.K.3 (service credited from the 1995 Section)—

- (a) in paragraph (1)(b), for “E2A (ill health pension on early retirement) of the 1995” substitute “E3 (early retirement pension on ill health grounds (post 1st April 2008) of the 2011”;
- (b) in paragraph (3), for “1995” substitute “2011”;
- (c) in paragraph (4), for “1995” substitute “2011”;
- (d) in paragraph (6), for “1995” where it first occurs substitute “2011”;
- (e) in paragraph (6)(a), for “1995” substitute “2011”; and
- (f) in paragraph (6)(c), for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 2.K.4

41. In regulation 2.K.4 (treatment of additional pension)—

- (a) in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”;
- (b) in paragraph (2)(a), for “1995” substitute “2011”;
- (c) in paragraph (3)(a), for “1995 Regulations” substitute “2011 Regulations”;
- (d) in paragraph (3)(b), for “1995 Regulations” substitute “2011 Regulations”;
- (e) in paragraph (4)(a), for “1995” substitute “2011”;
- (f) in paragraph (4)(b), for “1995 Regulations” substitute “2011 Regulations”; and
- (g) in paragraph (6)(b), for “1995” in the four places where it occurs substitute “2011”.

Amendment of regulation 2.K.5

42. In regulation 2.K.5 (treatment of additional service)—

- (a) in paragraph (1)(b), for “1995” substitute “2011”;
- (b) in paragraph (2)(a), for “1995” substitute “2011”;
- (c) in paragraph (3)(a), for “(4), and as the case may be paragraph (8), of regulation Q1 of the 1995” substitute “(6), and as the case may be paragraph (15), of regulation Q1 of the 2011”;
- (d) in paragraph (3)(b), for “(4) and (5) (but not (6)) of regulation Q7 of the 1995” substitute “(5) and (6) (but not (7)) of regulation Q7 of the 2011”; and
- (e) in paragraph (3)(c), for “(4) and (5) (but not (6)) of regulation Q7 of the 1995” substitute “(5) and (6) (but not (7)) of regulation Q7 of the 2011”.

Amendment of regulation 2.K.6

43. In regulation 2.K.6 (treatment of unreduced retirement lump sum), in paragraph (1), for “1995” substitute “2011”.

Amendment of regulation 2.K.7

44. In regulation 2.K.7 (treatment of 2008 Section Optants to whom regulation L1(3) of the 1995 Section applied immediately before 1st April 2008)—

- (a) in paragraph (1)(b), for “1995” substitute “2011”; and
- (b) in paragraph (3)(b), for “1995” substitute “2011”.

Amendment of regulation 2.K.9

45. In regulation 2.K.9 (treatment of 2008 Section Optants to whom regulation R8 of the 1995 Regulations applied immediately before 1st April 2008)—

- (a) in the cross heading, for “1995” substitute “2011”;
- (b) in paragraph (1)(c), for “E6” substitute “E12”; and
- (c) in paragraph (3)(b), for “1995” substitute “2011”.

Amendment of regulation 2.K.12

46. In regulation 2.K.12 (amount of pension and lump sum to be paid to a 2008 Section Optant), in paragraph (16)—

- (a) in the definition of “1995 Section Pension Debit”, for “1995 Regulations” substitute “2011 Regulations”;
- (b) in the definition of “Increase Factor” for “1995 Regulations” substitute “2011 Regulations”; and
- (c) in the definition of “Reduction Factor”—
 - (i) for “E8(7)(b) of the 1995” substitute “E14(7)(b) of the 2011”; and
 - (ii) for “E5” substitute “E11”.

Amendment of regulation 2.K.13

47. In regulation 2.K.13 (transfers in: provisional provisions)—

- (a) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”; and
- (b) in paragraph (2)(a), for “1995” substitute “2011”.

Amendment of regulation 2.K.14

48. In regulation 2.K.14 (2008 Section Optants: transitional upper tier ill health pension), in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.K.16

49. In regulation 2.K.16 (application of regulation 2.D.9 where a 2008 Section Optant has submitted an application for ill health retirement under the 1995 Section)—

- (a) in paragraph (1)(a) for “E2A of the 1995” substitute “E3 of the 2011”; and

- (b) in paragraph (2)(b) for “E2B (re-assessment of ill health condition determined under regulation E2A) of the 1995” substitute “E4 (re-assessment of ill health condition determined under regulation E3) of the 2011”.

Amendment of regulation 2.K.18

50. In regulation 2.K.18 (transitional provision: treatment of additional service in respect of Optants retiring on the grounds of ill health)—

- (a) in paragraph (2)(a), for “E2A (ill health pension on early retirement) of the 1995” substitute “E3 (early retirement pension on ill health grounds (post 1st April 2008)) of the 2011”;
- (b) in paragraph (2)(b), for “1995” substitute “2011”;
- (c) in paragraph (3)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (3)(b), for “1995” substitute “2011”; and
- (e) in paragraph (4)(b)—
 - (i) for “1995” in both places where it occurs substitute “2011”;
 - (ii) after “Q7(3)” insert “and (4)”; and
 - (iii) for “E2A” substitute “E3”.

Amendment of regulation 2.K.19

51. In regulation 2.K.19 (circumstances in which a 1995 Section member may defer making an option to join this Section of the scheme under regulation 2.K.2)—

- (a) in paragraph (1)(a)(ii), for “1995” substitute “2011”;
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (3)(b)(i), for “E2A of the 1995” substitute “E3 of the 2011”; and
- (d) in paragraph (4)(b), for “E5 (early retirement pension (with actuarial reduction) or E6 (preserved pension) of the 1995” substitute “E11 (early retirement pension (with actuarial reduction)) or E12 (preserved pension) of the 2011”.

Amendment of regulation 2.K.20

52. In regulation 2.K.20 (nominations and notices accepted by the Scottish Ministers under the 1995 regulations to apply under Chapter 2.E of these Regulations)—

- (a) in the cross heading, for “1995 regulations” substitute “2011 Regulations”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and
- (d) in paragraph (2)(c), for “1995” substitute “2011”.

Amendment of regulation 2.K.22

53. In regulation 2.K.22 (2008 Section Optants who are in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995 Regulations (ill health pension on early retirement)” substitute “E3 of the 2011 Regulations (early retirement on ill health grounds (post 1st April 2008))”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;

- (d) in paragraph (5)(b), for “E2B of the 1995” substitute “E4 of the 2011”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

Amendment of regulation 2.K.23

54. In regulation 2.K.23 (lump sum payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.K.24

55. In regulation 2.K.24 (children’s pensions payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 2.L.2

56. In regulation 2.L.2 (nominations and notices accepted by the Scottish Ministers under the 1995 Regulations and Chapter 2.E of these Regulations)—

- (a) in the cross heading, for “1995 ” substitute “2011”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and
- (d) in paragraph (2)(c), for “1995” substitute “2011”.

Amendment of regulation 2.L.3

57. In regulation 2.L.3 (Waiting Period Joiners who are in receipt of a lower tier ill-health pension under Regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (5)(b), for “E2B of the 1995 Regulations (re-assessment of ill health condition determined under regulation E2A)” substitute “E4 of the 2011 Regulations (re-assessment of ill health condition determined under regulation E3)”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

Amendment of regulation 2.L.5

58. In regulation 2.L.5 (children’s pensions payable on the death of a Waiting Period Joiner), in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 3.A.1

59. In regulation 3.A.1 (interpretation of Part 3: general), in paragraph (1)—

- (a) omit the definition of “the 1995 Regulations”;
- (b) for the definition of “the 1995 Section” substitute—

- “the 1995 Section” means the Section of the scheme, the rules of which are set out in the National Health Superannuation Scheme (Scotland) Regulations 2011;”;
- (c) after the definition of “the 2004 Regulations” insert—
- “the 2011 Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”;
- (d) omit the definition of “dental list”;
- (e) for the definition of “dentist” substitute—
- “dentist” means a dental practitioner registered in the register of dentists;”
- (f) in the definition of “doctors’ retainer scheme”, from “given” to the end substitute “it has in directions comprising the GMS Statement of Financial Entitlements given by the Scottish Ministers under section 17M of the 1978 Act (payments by Health Boards under general medical services contracts)”; and
- (g) for the definition of “the scheme” substitute—
- “the scheme”, except where the context otherwise requires, means the National Health Service Superannuation Scheme for Scotland, the rules of which are set out in these Regulations and the National Health Service Superannuation Scheme (Scotland) Regulations 2011;”.

Amendment of regulation 3.A.3

60. In regulation 3.A.3 (meaning of “pensionable service”), in paragraph (9), in the definition of “LPS”, for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 3.A.5

- 61.** In regulation 3.A.5 (meaning of “qualifying service”), in paragraph (1)—
- (a) in sub-paragraph (b), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
- (b) in sub-paragraph (e)(ii), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
- (c) in sub-paragraph (e)—
- (i) in the full out, for “1995 Regulations” in both places where it occurs substitute “2011 Regulations”; and
- (ii) at the end omit “and”; and
- (d) after sub-paragraph (f) insert—
- “(g) in the case of a Waiting Period Joiner (as defined in regulation 3.L.1(2)), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section; and
- (h) in the case of a person who is eligible to join this Section of the Scheme by virtue of regulation 3.B.1(5)(e), (g) or (h) (eligibility: general), a period equal in length to the period of qualifying service which the member is entitled to count under the 1995 Section.”.

Amendment of regulation 3.B.1

- 62.** In regulation 3.B.1 (eligibility: general)—
- (a) in paragraph (5)(d)(ii)—

- (i) omit “this Section of”; and
- (ii) for “the scheme” substitute “this Section of the scheme”;
- (b) in paragraph (5)(e)(iv), in the full out—
 - (i) for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”; and
 - (ii) for “1995 Regulations” substitute “2011 Regulations”;
- (c) in paragraph (5)(f), for “1995 Regulations” substitute “2011 Regulations”;
- (d) in paragraph (5)(g), for “1995 Regulations” substitute “2011 Regulations”;
- (e) in paragraph (5)(h), for “1995 Regulations” substitute “2011 Regulations”; and
- (f) in paragraph (5)(i), for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 3.B.1A

- 63.** In regulation 3.B.1A (eligibility: transitional)—
- (a) in paragraph (3), for “1995” substitute “2011”;
 - (b) in paragraph 3(b), for “E2A(3)(a)” substitute “E3(3)(a)”;
 - (c) in paragraph 3(c), for “E3A” substitute “E7”;
 - (d) in paragraph 3(d), for “E5 (early retirement pension with actuarial reduction)” substitute “E11 (early retirement pension (with actuarial reduction))”;
 - (e) in paragraph (4), for “1995” substitute “2011”;
 - (f) in paragraph (4)(a), for “(ill health)” substitute “ill health grounds (pre 1st April 2008)”;
 - (g) in paragraph (4)(b), for “E3” substitute “E6”;
 - (h) in paragraph (5), for “E2A(3)(b)” substitute “E3(3)(b)”;
 - (i) in paragraph (6)—
 - (i) for “E2A(3)(a) of the 1995” substitute “E3(3)(a) of the 2011”;
 - (ii) for “E2B(3)” substitute “E4(3)”;
 - (iii) for “E2A” substitute “E3”;
 - (j) in paragraph (7)(a), for “1995” substitute “2011”;
 - (k) in paragraph (7)(b), for “1995” in the first place where it occurs substitute “2011”;
 - (l) in paragraph (7)(b)(i), for “1995 Regulations” substitute “2011 Regulations”;
 - (m) in paragraphs (8)(b), for “1995 Regulations” substitute “2011 Regulations”; and
 - (n) in paragraph (8)(c)—
 - (i) for ““E2A”, “E2B(3)”, “E3”, “E3A”, “E3A(3)(a)”, “E3A(3)(b)” or “E5”” substitute ““E3”, “E4(3)”, “E6”, “E7”, “E7(3)(a)”, “E7(3)(b)” or “E11”””; and
 - (ii) for “1995” substitute “2011”.

Amendment of regulation 3.C.1

- 64.** In regulation 3.C.1 (contributions by members), in paragraph (3), for “(3)” substitute “(3A)”.

Amendment of regulation 3.C.2

- 65.** In regulation 3.C.2 (members’ contribution rate), in paragraph (6)—

- (a) for “which” substitute “on the basis of whichever of the following the host Health Board or someone appointed to act on their behalf considers the most appropriate in the circumstances”;
- (b) in sub-paragraph (a), before “have” insert “the amount of the practitioner’s earnings that”;
- (c) in sub-paragraph (b), before “corresponds” insert “the amount of the practitioner’s earnings that”; and
- (d) in sub-paragraph (c), before “corresponds” insert “the amount of the practitioner’s earnings that”.

Amendment of regulation 3.D.7

66. In regulation 3.D.7 (early retirement on ill health (active member and non contributing members)—

- (a) in paragraph (17), in the definition of “permanently”—
 - (i) in sub-paragraph (b)(i), for “E2A(2)(b)(i) of the 1995” substitute “E3(2)(b)(i) of the 2011”; and
 - (ii) in sub-paragraph (b)(ii), for “E2A(2)(b)(ii) of the 1995” substitute “E3(2)(b)(ii) of the 2011”; and
- (b) in paragraph (19), for “Regulation E2A of the 1995” substitute “regulation E3 of the 2011”.

Amendment of regulation 3.D.11

67. In regulation 3.D.11 (option for members in serious ill-health to exchange whole pension for lump sum)—

- (a) in paragraph (4), omit “and before reaching the age of 75”; and
- (b) in paragraph (5), omit “and before reaching the age of 75”.

Amendment of regulation 3.D.18

68. In regulation 3.D.18 (guaranteed minimum pensions etc.), in paragraph (7), after “reference to” insert “this Section of”.

Amendment of regulation 3.E.2

69. In regulation 3.E.2 (meaning of “surviving nominated partner”), in paragraph (4), for “1995” substitute “2011”.

Amendment of regulation 3.E.9

70. In regulation 3.E.9 (meaning of “dependent child”), in paragraph (1)(c)(i), for “whilst the deceased was” substitute “before the deceased ceased to be”.

Amendment of regulation 3.E.10

71. In regulation 3.E.10 (amount of children’s pension under regulation 3.E.8: deceased active members and deceased non contributing members), in paragraph (3), in the full out, for “E2A of the 1995 Section” substitute “E3 of the 2011 Regulations”.

Amendment of regulation 3.E.11

72. In regulation 3.E.11 (amount of children’s pension under regulation 3.E.8: deceased pension members), paragraph (3), in the full out, for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 3.E.12

73. In regulation 3.E.12 (amount of children’s pension under regulation 3.E.8: deceased deferred members), in paragraph (3A), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 3.E.16

74. In regulation 3.E.16 (lump sum benefits on death: introduction), for paragraph (1) substitute—

- “(1) A lump sum is payable in accordance with this Chapter if—
 - (a) a member, a recent leaver or a deferred member dies before reaching the age of 75; or
 - (b) a pensioner member, on or after reaching the age of 75, dies except in the circumstances described in regulation 2.E.20A.”.

Amendment of regulation 3.E.17

75. In regulation 3.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 3.D.5 employments)), paragraph (1A), for “E2A of the 1995 Section” substitute “E3 of the 2011 Regulations”.

Amendment of regulation 3.E.19

76. In regulation 3.E.19 (amount of lump sum: dual capacity members: members with pensions under regulation 3.D.5), in paragraph (2A), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 3.E.20A

77. In regulation 3.E.20A (pension payable when member dies on or after reaching age 75), in paragraph (1), after “If” insert “, on or before 5th April 2011,”.

Amendment of regulation 3.E.21

78. In regulation 3.E.21 (payment of lump sums or pensions on death), in paragraph (13), for “1995” substitute “2011”.

Amendment of regulation 3.F.6

79. In regulation 3.F.6 (calculating amounts of transfer payments)—

- (a) in paragraph (4)(b)(ii)—
 - (i) for “10” substitute “14”; and
 - (ii) for “1995” substitute “2011”; and
- (b) in paragraph (4)(b)(iii)—
 - (i) for “19” substitute “26”; and
 - (ii) for “1995” substitute “2011”.

Amendment of regulation 3.F.17

80. In regulation 3.F.17 (transfers across from the NHS superannuation scheme for Scotland 1995)—

- (a) in the cross heading, for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
- (b) in paragraph (1)—
 - (i) for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”;
 - (ii) for “M7” substitute “M8”; and
 - (iii) for “1995 Regulations” substitute “2011 Regulations”;
- (c) in paragraph (2)(b), for “M7 of the 1995” substitute “M8 of the 2011”;
- (d) in paragraph (4)(a), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”; and
- (e) in paragraph (5), for “NHS superannuation scheme for Scotland 1995” substitute “1995 Section”.

Amendment of regulation 3.J.8

81. In regulation 3.J.8 (deduction of tax)—

- (a) in paragraph (4), for “when” substitute “before”; and
- (b) after paragraph (4) insert—
 - “(5) Paragraph (6) applies if—
 - (a) a lump sum is payable on the death of a pensioner member in accordance with paragraph (2) of regulation 3.E.17 (amount of lump sum: single capacity members and recent leavers (disregarding regulation 3.D.5 employments)); and
 - (b) that lump sum is payable in respect of a member who had reached the age of 75 at the date of the member’s death.
 - (6) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 206 of the 2004 Act (special lump sum benefits charge) from the lump sum.
 - (7) Paragraph (8) applies if—
 - (a) an active member, a non-contributing member or a pension credit member exercises the option in paragraph (1) of regulation 3.D.11 (option for members in serious ill health to exchange whole pension for lump sum) to exchange a relevant pension for a lump sum in accordance with paragraph (3)(a) of that regulation; and
 - (b) that lump sum payment is to be made to a member who has reached the age of 75.
 - (8) Without prejudice to the generality of paragraph (1), before the lump sum is paid, the scheme administrator may deduct the tax payable under section 205A of the 2004 Act (serious ill-health lump sum charge) from the lump sum.”.

Amendment of regulation 3.K.1

82. In regulation 3.K.1 (application of Chapter 3.K)—

- (a) in paragraph (1)(a)—
 - (i) for “1995” substitute “2011”; and
 - (ii) for “10” substitute “14”;

- (b) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”;
- (c) in paragraph (1)(c), for “E3 or E3A of the 1995” substitute “E6 or E7 of the 2011”; and
- (d) in paragraph (2)(a)—
 - (i) for “E2(11) of the 1995” substitute “E2(12) of the 2011”; and
 - (ii) for “(ill health)” substitute “on ill health grounds (pre 1st April 2008)”.

Amendment of regulation 3.K.2

83. In regulations 3.K.2 (options for 1995 Section members to join this Section of the scheme under Chapter 3.K)—

- (a) in paragraph (9)(b)—
 - (i) for “11 and 12” substitute “15 and 16”; and
 - (ii) for “1995 Regulations” substitute “2011 Regulations”;
- (b) in paragraph (9A)(a), for “1995” substitute “2011”; and
- (c) in paragraph (12)—
 - (i) for “E2A (ill health pension on early retirement)” substitute “E3 (early retirement pension on ill health grounds (post 1st April 2008))”; and
 - (ii) for “1995” in both places where it occurs substitute “2011”.

Amendment of regulation 3.K.3

84. In regulation 3.K.3 (service and pensionable earnings credited from the 1995 Section)—

- (a) in paragraph (1)(b), for “E2A of the 1995 Regulations (ill health pension on early retirement)” substitute “E3 of the 2011 Regulations (early retirement pension on ill health grounds (post 1st April 2008))”;
- (b) in paragraph (3), for “1995” substitute “2011”;
- (c) in paragraph (4), for “1995” substitute “2011”;
- (d) in paragraph (5)(b)—
 - (i) for “23” substitute “31”; and
 - (ii) for “1995” substitute “2011”;
- (e) in paragraph (6)(a), for “1995” substitute “2011”; and
- (f) in paragraph (9), for “1995” substitute “2011”.

Amendment of regulation 3.K.4

85. In regulation 3.K.4 (treatment of additional pension)—

- (a) in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”;
- (b) in paragraph (2)(a), for “1995” substitute “2011”;
- (c) in paragraph (3)(a), for “1995 Regulations” substitute “2011 Regulations”;
- (d) in paragraph (3)(b), for “1995 Regulations” substitute “2011 Regulations”;
- (e) in paragraph (4)(a), for “1995 Regulations” substitute “2011 Regulations”;
- (f) in paragraph (4)(b), for “1995 Regulations” substitute “2011 Regulations”;
- (g) in paragraph (6)(b) for “1995” in the four places where it occurs substitute “2011”;
- (h) in paragraph (7), for “1995” substitute “2011”; and

- (i) in paragraph (8), for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 3.K.5

86. In regulation 3.K.5 (treatment of additional service and pensionable earnings)—

- (a) in paragraph (1)(b), for “1995” substitute “2011”;
- (b) in paragraph (2)(a)—
 - (i) for “1995” in both places where it occurs substitute “2011”; and
 - (ii) for “19(2)” substitute “26(2)”;
- (c) in paragraph (3)(a)—
 - (i) for “Q1(4)” substitute “Q1(6)”;
 - (ii) for “19(2)” substitute “26(2)”;
 - (iii) for “19(4)” substitute “26(4)”;
 - (iv) for “1995” substitute “2011”;
- (d) in paragraph (3)(b)—
 - (i) for “19(2)” substitute “26(2)”;
 - (ii) for “19(4)” substitute “26(4)”;
 - (iii) for “1995” substitute “2011”; and
 - (iv) for “(4) and (5)” substitute “(6) and (7)”;
- (e) in paragraph (3)(c)—
 - (i) for “20(2)” substitute “27(2)”;
 - (ii) for “19(4)” substitute “26(4)”.

Amendment of regulation 3.K.6

87. In regulation 3.K.6 (treatment of unreduced retirement lump sum), in paragraph (1), for “1995” substitute “2011”.

Amendment of regulation 3.K.7

88. In regulation 3.K.7 (treatment of 2008 Section Optants to whom regulation L1(3) of the 1995 Regulations applied immediately before 1st April 2008)—

- (a) in the cross heading, for “1995 regulations” substitute “2011 Regulations”;
- (b) in paragraph (1)(b), for “1995” substitute “2011”; and
- (c) in paragraph (3)(b)—
 - (i) for “9” substitute “11”; and
 - (ii) for “1995” substitute “2011”.

Amendment of regulation 3.K.10

89. In regulation 3.K.10 (transfers in: transitional period)—

- (a) in paragraph (1)(b), for “1995 Regulations” substitute “2011 Regulations”; and
- (b) in paragraph (2)(a), for “N1(4) of the 1995 ” substitute “N1(5) of the 2011”.

Amendment of regulation 3.K.11

90. In regulation 3.K.11 (amount of pension and lump sum to be paid to a 2008 Section Optant), in paragraph (17)—

- (a) in the definition of “1995 Section Pension Debit”, for “1995 Regulations” substitute “2011 Regulations”;
- (b) in the definition of “Increase Factor”, for “1995 Regulations” substitute “2011 Regulations”; and
- (c) in the definition of “Reduction Factor”—
 - (i) for “E8(7)(b) of the 1995” substitute “E14(7)(b) of the 2011”; and
 - (ii) for “E5” substitute “E11”.

Amendment of regulation 3.K.12

91. In regulation 3.K.12 (nominations and notices accepted by the Scottish Ministers under the 1995 Regulations to apply under Chapter 3.E of these Regulations)—

- (a) in the cross heading, for “1995” substitute “2011”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and
- (d) in paragraph (2)(c), for “1995” substitute “2011”.

Amendment of regulation 3.K.13

92. In regulation 3.K.13 (2008 Section Optants: transitional upper tier ill health pension), in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 3.K.15

93. In regulation 3.K.15 (application of regulation 3.D.8 where a 2008 Section Optant has submitted an application for ill health retirement under the 1995 Section)—

- (a) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (2)(b)—
 - (i) for “E2B” substitute “E4”;
 - (ii) for “E2A” substitute “E3”; and
 - (iii) for “1995” substitute “2011”.

Amendment of regulation 3.K.18

94. In regulation 3.K.18 (transitional provision: treatment of additional service and pensionable earnings in respect of Optants retiring on the grounds of ill health)—

- (a) in paragraph (2)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (2)(b)—
 - (i) for “1995” in both places where it occurs substitute “2011”; and
 - (ii) for “(19)” substitute “26”;
- (c) in paragraph (2)(c)(i), for “1995” substitute “2011”;
- (d) in paragraph (3)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (e) in paragraph (3)(b), for “1995” substitute “2011”; and

- (f) in paragraph (4)(b)—
 - (i) for “1995” in the four places where it occurs substitute “2011 Regulations”;
 - (ii) for “19” in both places where it occurs substitute “26”;
 - (iii) after “Q7(3)” insert “or (4)”; and
 - (iv) for “E2A” substitute “E3”.

Amendment of regulation 3.K.20

95. In regulation 3.K.20 (circumstances in which a 1995 Section member may defer making an option to join this Section of the scheme under regulation 3.K.2)—

- (a) in paragraph (1)(a)(ii), for “1995” substitute “2011”;
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (3)(b)(i), for “E2A of the 1995” substitute “E3 of the 2011”; and
- (d) in paragraph (4)(b)—
 - (i) for “E5” substitute “E11”;
 - (ii) for “E6” substitute “E12”; and
 - (iii) for “1995” substitute “2011”.

Amendment of regulation 3.K.21

96. In regulation 3.K.21 (2008 Section Optants who are in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (5)(b), for “E2B of the 1995” substitute “E4 of the 2011”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

Amendment of regulation 3.K.22

97. In regulation 3.K.22 (lump sum payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Section)—

- (a) in the cross heading, for “E2A of the 1995 Section” substitute “E3 of the 2011 Regulations”; and
- (b) paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 3.K.23

98. In regulation 3.K.23 (children’s pensions payable on the death of a 2008 Section Optant who is in receipt of a lower tier ill health pension under regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”; and
- (b) in paragraph (1)(b), for “E2A of the 1995” substitute “E3 of the 2011”.

Amendment of regulation 3.L.2

99. In regulation 3.L.2 (nominations and notices accepted by the Scottish Ministers under the 1995 Regulations and Chapter 2.E of these Regulations)—

- (a) in the cross heading, for “1995” substitute “2011”;
- (b) in paragraph (2)(a), for “1995” in both places where it occurs substitute “2011”;
- (c) in paragraph (2)(b), for “1995” in both places where it occurs substitute “2011”; and
- (d) in paragraph (2)(c), for “1995” substitute “2011”.

Amendment of regulation 3.L.3

100. In regulation 3.L.3 (Waiting Period Joiners who are in receipt of a lower tier ill-health pension under Regulation E2A of the 1995 Regulations)—

- (a) in the cross heading, for “E2A of the 1995” substitute “E3 of the 2011”;
- (b) in paragraph (1)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (c) in paragraph (4)(a), for “E2A of the 1995” substitute “E3 of the 2011”;
- (d) in paragraph (5)(b)—
 - (i) for “E2B of the 1995” substitute “E4 of the 2011”; and
 - (ii) for “E2A” substitute “E3”; and
- (e) in paragraph (6)(a), for “E2B of the 1995” substitute “E4 of the 2011”.

Amendment of regulation 3.L.5

101. In regulation 3.L.5 (children’s pensions payable on the death of a Waiting Period Joiner), in paragraph (1), for “1995 Regulations” substitute “2011 Regulations”.

Amendment of regulation 4.D.1

102. In regulation 4.D.1 (pensionable service limit), in paragraph (5), in the definition of “LPS”, for “1995 Regulations” substitute “2011 Regulations”.