
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 224

**The National Health Service Pension
Scheme (Scotland) Regulations 2008**

PART 1

INTRODUCTORY AND GENERAL

CHAPTER 1.A

INTRODUCTION

Citation, commencement and effect

1.A.1.—(1) These Regulations may be cited as the National Health Service Pension Scheme (Scotland) Regulations 2008.

(2) These Regulations come into force on 28th June 2008, but have effect from 1st April 2008⁽¹⁾.

Application of remaining Parts

1.A.2.—(1) Part 2 of these Regulations provides for benefits to be payable in relation to service as an officer (as defined in that Part).

(2) Part 3 of these Regulations provides for benefits to be payable in relation to service as—

(a) a practitioner; or

(b) an OOH provider,

(both as defined in that Part).

(3) Part 4 of these Regulations modifies Parts 2 and 3 to be varied where a member has pensionable service under both Parts 2 and 3.

CHAPTER 1.B

SCHEME REPORTS AND ACCOUNTS

Actuarial reports and accounts

1.B.1.—(1) The following paragraphs apply to—

(a) the National Health Service Pension Scheme as set out in these Regulations; and

(b) the National Health Service Superannuation Scheme (Scotland) Regulations 1995⁽²⁾.

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

(1) Section 12(1) of the Superannuation Act 1972 provides that Regulations may be framed so as to have effect from a date earlier than that of their making.

(2) S.I.1995/365; amended by S.I. 1997/1434 and 1916, 1998/1593, 1999/443, 2001/3649 and 2005/2011 and S.S.I. 2001/437 and 465, 2003/55, 270 and 517, 2005/512 and 544, 2006/307 and 561 and 2008/92.

- (3) The accounts shall be open to examination by the Auditor General for Scotland.
- (4) The scheme actuary (as defined in Parts 2 and 3) must—
 - (a) prepare an actuarial report of the scheme liabilities and benefits under these Regulations and the scheme liabilities and benefits under the provisions of the National Health Service Superannuation Scheme (Scotland) Regulations 1995, at 31st March 2012 and at the expiration of every period of 4 years after that date; and
 - (b) send a copy of that actuarial report of the scheme to the Scottish Ministers and the Treasury.

Cost sharing

1.B.2.—(1) The actuarial report referred to in regulation 1.B.1 must specify—

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

(2) Where the member contribution rate or benefits provided in England and Wales by the National Health Service Pension Scheme Regulations 2008⁽³⁾ have changed as a consequence of determinations made by the Secretary of State, under regulation 1.B.2 of those regulations, the actuarial report referred to in regulation 1.B.1 must also specify—

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

(3) Where the member contribution rate or benefits provided in England and Wales by the National Health Service Pension Scheme Regulations 2008 have changed as a consequence of determinations made by the Secretary of State under regulation 1.B.2 of those regulations, the initial employers' contribution rate (IECR) shall be calculated as RCR1 minus PYM1.

(4) Where the member contribution rate or benefits provided in England and Wales by the National Health Service Pension Scheme Regulations 2008 have not changed as a consequence of determinations made by the Secretary of State under regulation 1.B.2 of those regulations, the initial employers' contribution rate (IECR) shall be calculated as RCR minus PYM.

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

(6) In the event that IECR is more than one percentage point greater than or less than the rate payable by employing authorities in England and Wales under regulation 1.B.2 of the National Health Service Pension Scheme Regulations 2008 for the same period the relevant member contribution rates and employer contribution rates will be subject to review by Scottish Ministers having taken advice from—

- (a) the scheme actuary;
- (b) Her Majesty's Treasury; and
- (c) any other person the Scottish Ministers consider appropriate.

Provision of information for tax purposes

1.B.3.—(1) A person who is entitled to a benefit under these Regulations must give the scheme administrator such information as will enable the scheme administrator to determine—

- (a) whether a lifetime allowance charge arises on the person becoming entitled to the benefit; and
- (b) if any such charge arises, the amount of the tax payable.

(3) S.I. 2008/653.

(2) Paragraph (1) applies whether or not the person intends to rely on having given notice under any of the provisions specified in section 256(1) of the 2004 Act (enhanced lifetime allowance regulations).

(3) If a person applying for a benefit under these Regulations intends to rely on entitlement by virtue of any such notice, in addition to the information mentioned in paragraph (1), the person must give the scheme administrator the reference number issued by the Commissioners for Her Majesty's Revenue and Customs⁽⁴⁾ under the Registered Pension Schemes (Enhanced Lifetime Allowance) Regulations 2006⁽⁵⁾ in respect of that entitlement.

(4) The information that a person is required to give under this regulation must be given—

- (a) at the time the person makes a claim for a benefit, or
- (b) within such period ending after that time as the scheme administrator specifies in writing.

(5) If a person fails to comply with paragraph (4)(b), the scheme administrator may calculate and pay tax due in respect of the lifetime allowance charge on the basis that the whole benefit is chargeable.

(4) The functions of the Commissioner for Inland Revenue were transferred to the Commissioner for Her Majesty's Revenue and Customs by the Commissioners for Revenue and Customs Act 2005 (c. 11), section 5.

(5) S.I. 2006/131.