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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 224**

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

**PART 2**

**BENEFITS FOR OFFICERS**

**CHAPTER 2.C**

**CONTRIBUTIONS**

*Additional contributions to purchase additional pensions*

**Member's option to pay additional periodical contributions to purchase additional pension**

**2.C.8.**—(1) An active member may opt to make additional periodical contributions by monthly instalments during the contribution option period—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 2.D (retirement benefits for members) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for 3 or 6 months under Chapter 2.E (death benefits)); or
- (b) to increase by a specified amount those benefits so payable and to increase the benefits otherwise payable in respect of surviving partners and dependent children under Chapter 2.E (death benefits) in respect of the member.

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

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

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

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

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

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

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

assuming that the contributions are made in accordance with the option for the remainder of the option period.

- (6) The tables referred to in paragraph (5)–
- (a) may specify different amounts for different descriptions of members; and
  - (b) may be amended during a scheme year,

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

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

- (a) contributions made under regulation 2.C.10 (member’s option to pay additional lump sum contributions to purchase additional pension); or
- (b) contributions made under regulation 2.C.11 (payment of additional lump sum contributions by employing authority),

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine (taking into account any increase in the members pension as a result of the exercise of an option in accordance with regulations 3.C.6 to 3.C.15).

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

- (a) is specified in the option;
- (b) begins with the pay period in respect of which the first contribution is made under the option;
- (c) is not less than one year nor more than 20 years; and
- (d) does not end later than the member’s 65th birthday.

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

**2.C.9.**—(1) This paragraph applies if during the contribution option period a member who has exercised the option under regulation 2.C.8–

- (a) is absent from work because of illness or injury;
- (b) is on maternity leave;
- (c) is on adoption leave;
- (d) is on paternity leave;
- (e) is on parental leave; or
- (f) is on a leave of absence of the kind mentioned in regulation 2.A.4(3) (pensionable service: breaks in service).

(2) If paragraph (1) applies–

- (a) the contributions under the option continue to be payable unless the member ceases paying contributions under regulation 2.C.1 (contributions by members); and
- (b) where the member does so cease, the member may continue to make contributions in accordance with the option if the member resumes making contributions under regulation 2.C.1 before the end of the period of 12 months beginning with the day on which the member first ceased to pay those contributions.

(3) This paragraph applies if–

- (a) a member exercises the option under regulation 2.C.8;
  - (b) the member ceases to be an active member during the contribution option period; and
  - (c) the member becomes an active member again before the end of the period of 12 months beginning with the day on which the member ceased to be an active member.
- (4) If paragraph (3) applies, the member may continue to make contributions in accordance with the option after becoming an active member again unless a repayment of contributions has been made to the member under regulation 2.C.18 (repayment of contributions).
- (5) For the purposes of paragraph (4) it does not matter whether the member has paid any of the repaid contributions back to the Scottish Ministers.

### **Member's option to pay lump sum contribution to purchase additional pension**

- 2.C.10.**—(1) An active member may opt to make a single lump sum contribution—
- (a) to increase by a specified amount the benefits payable to the member under Chapter 2.D (retirement benefits for members) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member's pension for 3 or 6 months under Chapter 2.E (death benefits)); or
  - (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners or dependent children under Chapter 2.E (death benefits) in respect of the member.
- (2) A member may only make a contribution under this regulation of an amount that is—
- (a) not less than the minimum amount; or
  - (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount.
- (3) In paragraph (2) “the minimum amount” means the amount that is, in accordance with tables prepared for the Scottish Ministers by the scheme actuary, the amount of the single contribution required at the time that the option is exercised to secure an increase in the member's pension of—
- (a) £250; or
  - (b) such other amount as the Scottish Ministers may for the time being determine.
- (4) A member may exercise the option under paragraph (1) more than once.
- (5) If a member exercises an option under paragraph (1)—
- (a) the additional contribution is payable by the member to the employing authority—
    - (i) by deduction from the member's earnings or otherwise; and
    - (ii) before the end of the period of one month beginning with the day on which the member is notified by the Scottish Ministers that the option is accepted; and
  - (b) the employing authority must pay it to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid or, as the case may be, the authority received payment of the contribution.
- (6) The total increase in the member's pension as a result of contributions made under this regulation, taken together with any increase as a result of—
- (a) contributions made under regulation 2.C.8 (member's option to pay additional periodical contributions to purchase additional pension); or
  - (b) contributions made under regulation 2.C.11 (payment of additional lump sum contributions by employing authority),

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine (taking into account any increase in the members pension as a result of the exercise of an option in accordance with regulations 3.C.6 to 3.C.15).

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

**2.C.11.**—(1) The employing authority of an active member may opt to make a single lump sum contribution—

- (a) to increase by a specified amount the benefits payable to the member under Chapter 2.D (retirement benefits for members) (including if a member dies after a pension becomes payable, the benefits paid to a surviving partner and dependent children at the same rate as the member’s pension for 3 or 6 months under Chapter 2.E (death benefits)); or
- (b) to increase by a specified amount those benefits and to increase the benefits otherwise payable in respect of surviving partners or dependent children under Chapter 2.E (death benefits) in respect of the member.

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

- (a) that is not less than the minimum amount (as defined in regulation 2.C.10(3)); and
- (b) in the case of an amount exceeding the minimum amount, a multiple of the minimum amount (as so defined).

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

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

- (a) contributions made under regulation 2.C.8 (member’s option to pay additional periodical contributions to purchase additional pension); or
- (b) contributions made under regulation 2.C.10 (member’s option to pay lump sum contribution to purchase additional pension),

may not exceed £5000 or such other amount as the Scottish Ministers may for the time being determine (taking into account any increase in the member’s pension as a result of the exercise of an option in accordance with regulations 3.C.6 to 3.C.15).

(5) A contribution under this regulation must be paid by the employing authority to the Scottish Ministers within one month of the date on which the authority gave the Scottish Ministers notice under regulation 2.C.12(2).

### **Exercise of options under regulations 2.C.8, 2.C.10 and 2.C.11**

**2.C.12.**—(1) A member exercising an option under regulation 2.C.8 or 2.C.10 must do so by giving notice in writing to the employing authority—

- (a) giving such information as may be required; and
- (b) at the same time provide the Scottish Ministers with a copy of that notice.

(2) An employing authority exercising an option under regulation 2.C.11 must do so by giving notice in writing to the Scottish Ministers, giving such information as may be required.

(3) An option under regulation 2.C.8, 2.C.10 or 2.C.11 may not be exercised during a period whilst the member is absent from work for any reason.

(4) For the purposes of this Part—

- (a) a member is treated as exercising an option under regulation 2.C.8 or 2.C.10 on the date on which the employing authority receives the member’s notice under paragraph (1); and

- (b) an employing authority is treated as exercising an option under regulation 2.C.11 on the date on which the Scottish Ministers receive the authority's notice under paragraph (2).
- (5) The Scottish Ministers may refuse to accept an option exercised under regulation 2.C.8, 2.C.10 or 2.C.11 and must do so if not satisfied that—
  - (a) the member is in good health; and
  - (b) in the case of an option exercised under regulation 2.C.8, there is no reason why the member's health should prevent the member from paying the contributions for the whole contribution period.
- (6) If the Scottish Ministers refuse to accept such an option—
  - (a) they must give notice in writing of that fact—
    - (i) in the case of an option exercised under regulation 2.C.8 or 2.C.10, to the member; and
    - (ii) in the case of an option exercised under regulation 2.C.11, to the employing authority and the member; and
  - (b) this Part applies as if the option had not been exercised.
- (7) This Part also applies as if an option under regulation 2.C.10 or 2.C.11 had not been exercised if—
  - (a) in the case of an option under regulation 2.C.10, the payment is not received by the employing authority—
    - (i) before the end of the period of one month beginning with the day on which the Scottish Ministers notify the member of the acceptance of the option; or
    - (ii) if it is earlier, on or before the member's 65th birthday; and
  - (b) in the case of an option under regulation 2.C.11, the payment is not received by the Scottish Ministers—
    - (i) before the end of the period of one month beginning with the day on which the employing authority gave the Scottish Ministers notice under paragraph (2); or
    - (ii) if it is earlier on or before the member's 65th birthday.

### **Cancellation of options under regulation 2.C.8**

**2.C.13.—**(1) A member may cancel an option under regulation 2.C.8(1) by giving the employing authority notice in writing.

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

(3) If it appears to the Scottish Ministers that the requirement in regulation 2.C.8(7) will not be met if the member continues to make periodical contributions under an option exercised under regulation 2.C.8, the Scottish Ministers may cancel the option by giving the member notice in writing.

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

### **Effect of payment of additional contributions under this Chapter**

**2.C.14.—**(1) This regulation applies if—

- (a) an option is exercised by a member under regulation 2.C.8 and all the contributions to be made under the option are made; or
  - (b) an option is exercised by a member under regulation 2.C.10 or by a member's employing authority under regulation 2.C.11 and the lump sum payment is made.
- (2) Subject to paragraph (9) the member's pension is increased by the full amount of the increase to be made in accordance with the terms of the option, after the final adjustment in that amount in accordance with regulation 2.C.17 (revaluation of increases bought under options).
- (3) Paragraph (2) is without prejudice to any increase or reduction falling to be made in the total amount of the member's pension under Chapter 2.D (member's retirement benefits) as a result of the member becoming entitled to payment of the pension before or after reaching the age of 65 (see regulations 2.D.3 (late payment of pension with actuarial increase) to 2.D.5 (partial retirement (members aged at least 55))).
- (4) In the case of an option under regulation 2.C.8(1)(b), 2.C.10(1)(b) or 2.C.11(1)(b), any pension payable under Chapter 2.E (death benefits) in respect of the member is increased by the appropriate amount.
- (5) In paragraph (4), subject to regulations 2.C.15 and 2.C.16(3), "the appropriate amount" means—
- (a) in the case of a pension under regulation 2.E.1 (surviving adult dependant's pension) the amount of which is determined under regulation 2.E.3 (active members) or 2.E.5 (deferred members), 37.5 per cent of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3));
  - (b) in the case of a pension under regulation 2.E.1 the amount of which is determined under regulation 2.E.4 (pensioner members), 37.5 per cent of the amount of the increase in the member's pension as a result of the option;
  - (c) in the case of a pension under regulation 2.E.8 (surviving children's pension) the amount of which is determined under regulation 2.E.10 (active members) or 2.E.12 (deferred members), the appropriate fraction (within the meaning of regulation 2.E.10 or, as the case may be, 2.E.12) of the amount of the increase mentioned in paragraph (2) that would have applied in the member's case if the member had become entitled to the increase on the date of death (disregarding paragraph (3)); and
  - (d) in the case of a pension under regulation 2.E.8 (surviving children's pensions) the amount of which is determined under regulation 2.E.11 (pensioner members), the appropriate fraction (within the meaning of that regulation) of the amount of the increase in the member's pension as a result of the option.
- (6) Except as provided in regulation 2.D.5 (partial retirement (members aged at least 55)), no separate claim is required as respects any additional pension payable by virtue of this regulation.
- (7) This regulation is subject to regulation 2.C.15.
- (8) For the effect of the options under regulation 2.C.8 where this regulation does not apply, see regulation 2.C.16 (effect of part payment of periodical contributions).
- (9) Paragraph (10) applies only to an option under regulation 2.C.8(1)(a), 2.C.10(1)(a) or 2.C.11(1)(a), where a pension is to be paid for either 3 or 6 months at the same rate as the member's pension was being paid at the date of that member's death.
- (10) Any increase to the member's pension shall be included only in a benefit payable to a surviving partner or a dependent child in respect of the member under these Regulations whilst it is being paid at the rate and for the duration of one of the periods referred to in paragraph (9).

### **Effect of death or early payment of pension after option exercised under regulation 2.C.8, 2.C.10 or 2.C.11**

**2.C.15.**—(1) If a member in respect of whom an option under regulation 2.C.8, 2.C.10 or 2.C.11 has been exercised dies before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) an amount equal to the contributions paid under the option must be paid—
  - (i) in the case of an option under regulation 2.C.8 or 2.C.10, to the member’s personal representatives; and
  - (ii) in the case of an option under regulation 2.C.11, to the employing authority which made the contribution; and
- (b) regulation 2.C.14(4) does not apply.

(2) If a member in respect of whom an option under regulation 2.C.8 has been exercised dies after the end of the period of 12 months beginning with the date on which the option was exercised and before the end of the contribution option period, regulation 2.C.14(4) applies as if all contributions due after the date of death had been made.

(3) If a member in respect of whom an option under regulation 2.C.8, 2.C.10 or 2.C.11 has been exercised becomes entitled to a pension under regulation 2.D.8 (early retirement on ill health (active members)) as a result of a claim made before the end of the period of 12 months beginning with the date on which the option was exercised—

- (a) regulation 2.C.14(2) and (4) does not apply; and
- (b) an amount equal to the contributions paid under the option must be paid—
  - (i) in the case of an option under regulation 2.C.8 or 2.C.10, to the member; and
  - (ii) in the case of an option under regulation 2.C.11, to the employing authority which made the contribution.

(4) If a member in respect of whom an option under regulation 2.C.8 has been exercised becomes entitled to a pension under regulation 2.D.8 before the end of the contribution option period as a result of a claim made after the end of the period of 12 months beginning with the date on which the option was exercised, regulation 2.C.14(2) and (4) applies as if all contributions under the option had been made.

(5) If a member in respect of whom an option under regulation 2.C.8, 2.C.10 or 2.C.11 has been exercised—

- (a) becomes entitled to a pension under regulation 2.D.4 (early payment of pensions with actuarial reduction), 2.D.10 (early retirement on ill health (deferred members)), or 2.D.11 (early retirement on termination of employment by employing authority); or
- (b) becomes entitled to a pension under regulation 2.D.5 before reaching the age of 65,

the increase in the member’s pension under Chapter 2.D (entitlement to pensions) which would otherwise be due under regulation 2.C.14(2) or regulation 2.C.16 is reduced.

(6) The amount of the reduction is such amount as the Scottish Ministers determine, after consulting the scheme actuary, to be appropriate by reason of the payment of the increase before the member reaches 65.

(7) This regulation is subject to regulation 2.C.16.

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

**2.C.16.**—(1) This regulation applies if—

- (a) the full number and amount of contributions due under an option under regulation 2.C.8 for the whole contribution option period are not made; and
  - (b) regulation 2.C.15(1) to (4) does not apply.
- (2) The increase in the member's pension under Chapter 2.D is the appropriate proportion of the increase that would have been made under regulation 2.C.14(2) if the full number and amount of contributions had been made (but taking account of regulation 2.C.15(5) if that applies).
- (3) In the case of an option under regulation 2.C.8(1)(b), the increase in any benefit payable under Chapter 2.E (death benefits) in respect of the member is the appropriate proportion of the increase that would have been made under regulation 2.C.14(4) if the full number and amount of contributions had been made (but taking account of regulation 2.C.15(5) if that applies).
- (4) For the purposes of paragraphs (2) and (3), the appropriate proportion is calculated in accordance with such method as the scheme actuary may determine and specify in guidance given to the Scottish Ministers.
- (5) In making a determination under paragraph (4), the scheme actuary must have regard to—
- (a) the proportion that the total contributions paid bears to the full amount of contributions due under an option under regulation 2.C.8 for the whole contribution option period; and
  - (b) the preservation requirements.

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

**2.C.17.**—(1) This regulation applies for the purposes of determining the final amount of the increase in a member's pension as a result of the exercise of an option under regulation 2.C.8, 2.C.10 or 2.C.11.

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

Step 1—

calculate the amount of the increase in accordance with regulations 2.C.14 to 2.C.16 immediately before that date to find “the basic amount”;

Step 2—

multiply the basic amount by the retail prices index for the second month before that in which the person becomes entitled to it to find the Step 2 amount;

Step 3—

divide the Step 2 amount by the retail prices index for the month in which the option was exercised to find the Step 3 amount;

Step 4—

add to the Step 3 amount any amount by which the Step 3 amount would be increased under the Pensions (Increase) Act 1971 if it were the amount of the member's pension, to find the Step 4 amount;

Step 5—

divide the Step 4 amount by the Step 3 amount to find the Step 5 factor; and

Step 6—

divide the Step 3 amount by the Step 5 factor to find the adjusted basic amount.

(3) The amount of the increase in a member's pension as a result of the exercise of an option under regulation 2.C.8, 2.C.10 or 2.C.11 as at the beginning date for that pension is—

- (a) if the adjusted basic amount is greater than the basic amount, the adjusted basic amount; and



(b) otherwise the basic amount.

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