
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 224

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

PART 2

BENEFITS FOR OFFICERS

CHAPTER 2.C

CONTRIBUTIONS

Basic contributions by members

Contributions by members

2.C.1.—(1) Each active member must make contributions to the scheme in respect of the member's pensionable pay in accordance with regulation 2.C.2—

- (a) until the member completes 45 years' pensionable service; or
- (b) where the notice required by regulation 2.A.2(3) (meaning of "pensionable service") has been properly received, until the member ceases officer service.

(2) The member's employing authority in respect of the employment must deduct the member's contributions from the member's earnings for the period and pay them to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid.

(3) A non GP provider must pay C1 contributions to the contracting Health Board or someone appointed on the Board's behalf.

(4) If a non GP provider is engaged under a contract of service or for services by an employing authority or is a partner or shareholder in any employing authority that is not an OOH provider, that authority must—

- (a) deduct C1 contributions from any pensionable pay it pays that person; and
- (b) if it is not also the contracting Health Board, pay those contributions to that Health Board, or someone appointed on its behalf.

(5) Subject to paragraph (6), if a non GP provider is—

- (a) an employing authority which is a GMS provider, a section 17C agreement practice or an HBPMS contractor; or
- (b) a shareholder or partner in such an employing authority,

that employing authority must pay C5 contributions to the contracting Health Board or person appointed on its behalf.

(6) If a non GP provider is a shareholder or partner in more than one employing authority referred to in paragraph (5), each employing authority must pay C5 contributions on any pensionable pay it

pays to the non GP provider or, as the case may be, on the non GP provider's share of the partnership profits, to the contracting Health Board or person appointed on its behalf.

(7) If paragraph (4) applies (but paragraph (5) does not) and the employing authority referred to in that paragraph—

- (a) is not the contracting Health Board, that authority must pay C5 contributions to the contracting Health Board or person appointed on its behalf; or
- (b) is the contracting Health Board, that Health Board or someone appointed on its behalf must pay C5 contributions to the Scottish Ministers in respect of any pensionable pay it pays to the non GP provider.

(8) Contributions which are required to be paid to the contracting Health Board or someone appointed on its behalf, in accordance with this regulation must be paid to that Health Board or someone appointed on its behalf not later than the 7th day of the month following the month in which the earnings were paid.

(9) It is a function of the contracting Health Board or someone appointed on its behalf to pay the contributions—

- (a) paid to it by a non GP provider;
- (b) paid to it by another employing authority; and
- (c) it is liable to pay by virtue of paragraph (7)(b),

in accordance with the provisions of this regulation, to the Scottish Ministers not later than the 19th day of the month following the month in which the earnings were paid.

(10) Without prejudice to any other method of recovery, if in respect of C1 contribution—

- (a) a non GP provider has failed to pay contributions; or
- (b) an employing authority has failed to deduct such contributions, in accordance with this paragraph, the Scottish Ministers may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member entitled to them if—
 - (i) the member agrees to such a deduction; and
 - (ii) the deduction is to the member's advantage.

(11) For the purposes of this regulation—

- (a) "C1 contributions" means contributions payable under regulation 2.C.1 by a non GP provider under the scheme; and
- (b) "C5 contributions" means contributions payable under regulation 2.C.5 by an employing authority in respect of a non GP provider.

(12) If any employing authority fails to deduct contributions payable by a member in respect of an employment from the member's earnings and the member agrees, the Scottish Ministers may recover any sum that remains due in respect of those contributions by deduction from any payment by way of benefits to, or in respect of, the member.

(13) Paragraph (12) does not affect any other right of recovery the Scottish Ministers may have.

(14) A member who is absent from service in circumstances falling within regulation 2.A.4(1) to (3) (pensionable service: breaks in service) may make contributions to the scheme in respect of the member's pensionable pay in accordance with those regulations and regulation 2.C.2.

Members' contribution rate

2.C.2.—(1) Contributions under regulation 2.C.1(1) must be paid at the member's contribution rate for the period in question.

(2) Subject to paragraph (3), a member's contribution rate for that period is the percentage specified in Column 2 of the following table in respect of the corresponding pensionable pay range specified in Column 1 into which the member's pensionable earnings fall.

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

(3) The Scottish Ministers may make a determination substituting any or all of the pensionable pay amounts or contribution rates specified in the table in paragraph (2) with effect from a date specified in the determination.

- (4) Before making a determination under paragraph (3), the Scottish Ministers must consider—
- the advice of the scheme actuary; and
 - in accordance with regulation 1.B.2 (cost sharing), advice from such employee and employer representatives as the Scottish Ministers consider appropriate.

Employees

2.C.3.—(1) If, at any time during the 2008–2009 scheme year and having no earlier officer service or practitioner service, a member commences pensionable employment under this Part—

- (a) that member's pensionable pay is calculated according to the formula—

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

where—

EPP is the amount of pensionable pay that the member's employing authority estimates will be payable to the member in respect of that employment during the 2008–2009 scheme year if that member is in employment on a whole time basis; and
NDPE is the number of days of pensionable employment from the date employment commences to the end of the 2008–2009 scheme year; and

- (b) contributions payable for the 2008–2009 scheme year are those specified in column 2 of the table in regulation 2.C.2 (2) in respect of the amount of pensionable pay referred to in column 1 of that table corresponding to the member's estimated pensionable pay for the 2008–2009 scheme year calculated in accordance with this paragraph.

(2) If a member holds 2 or more pensionable employments under this Part at the same time, each of those employments shall be treated separately for the purposes of calculating and paying contributions.

- (3) If a member who is in employment under this Part (“the earlier employment”)—
- commences a further employment (“the later employment”) at any time during the 2008–2009 scheme year; and
 - that later employment is held concurrently with the earlier employment,

the member must pay contributions in respect of the later employment at the rate specified in column 2 of the table in regulation 2.C.2(2) in respect of the amount of pensionable pay referred to in column

1 of that table corresponding to the member's estimated pensionable pay for the 2008–2009 scheme year calculated in accordance with paragraph (1).

(4) If a member–

- (a) at any time during the 2008–2009 scheme year, ceases pensionable employment (“the earlier employment”) that is not held concurrently with another pensionable employment; and
- (b) after so ceasing, the member next commences a further employment (“the later employment”) that is not held concurrently with another employment,

the member must continue to pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(5) If–

- (a) a member at any time during the 2008–2009 scheme year, ceases to be in 2 or more employments that were at one time held concurrently with each other (“the earlier employments”);
- (b) those earlier employments did not all cease on the same day; and
- (c) that member next commences a further employment (“the later employment”),

the member must continue to pay contributions in respect of the later employment at the same rate as that which applied to whichever of the earlier employments was the last to cease.

(6) If–

- (a) a member at any time during the 2008–2009 scheme year, ceases to be in 2 or more employments that were at one time held concurrently with each other (“the earlier employments”);
- (b) the last 2 or more of those earlier employments ceased on the same day; and
- (c) that member next commences a further employment (“the later employment”),

the member must pay contributions in respect of the later employment at the rate specified in column 2 of the table in regulation 2.C.2(2) in respect of the amount of pensionable earnings referred to in column 1 of that table corresponding to the member's pensionable pay for the 2008–2009 scheme year calculated in accordance with paragraph (1).

(7) If a member–

- (a) commences pensionable employment under this Part at any time during the 2008–2009 scheme year (“the later employment”);
- (b) has previous service under Part 3 (benefit for practitioners, non GP providers etc.) during that scheme year in respect of which he or she was liable to pay contributions to the scheme under that Part and that service was as a practitioner and all the previous practitioner service ceased prior to the commencement of the later service,

that member must pay contributions in respect of the later employment at the rate determined under Part 3 for that earlier service that ceased immediately prior to the commencement of the later employment.

(8) If–

- (a) a member commences pensionable employment under this Part of these regulations (“the later service”) at any time during the 2008–2009 scheme year;
- (b) that member has previous service under Part 3 during that scheme year in respect of which he or she was liable to pay contributions to the scheme under that Part and that service was both as a practitioner and as a dentist; and

- (c) all such practitioner service had ceased on the same day and prior to the commencement of the later employment,

the member must pay contributions in respect of the later employment at the rate specified in column 2 of the table in regulation 2.C.2(2) in respect of the amount of pensionable pay referred to in column 1 of that table corresponding to the member's pensionable pay for 2008–2009 scheme year calculated in accordance with paragraph (1).

(9) If, in respect of a member, none of the foregoing paragraphs apply, for the purpose of determining a member's relevant contribution rate, the Scottish Ministers must determine the amount of the member's pensionable pay to be attributed to the 2008–2009 scheme year and, in doing so, must (in addition to the matters referred to in paragraph 2.C.2(4)) have regard to that pensionable pay attributable to pensionable employment comparable to the member's pensionable employment, prevailing pay scales and prevailing rates of pensionable allowances.

(10) If a non-GP provider commences service for the first time (having no earlier service under Parts 2 or 3) at any time during the 2008–2009 scheme year–

- (a) that non-GP Provider's pensionable pay in respect of that scheme year is the amount agreed between the contracting Health Board or someone appointed on its behalf on the one hand and the provider on the other hand as representing their estimate of the provider's pensionable pay from all provider sources for that year; and
- (b) contributions payable for that part year are those specified in column 2 of the table in regulation 2.C.2(2) in respect of the amount of pensionable earnings referred to in column 1 of that table which corresponds to those estimated earnings.

(11) If a non-GP provider–

- (a) commences further NHS employment (“the later employment”) at any time during the 2008–2009 scheme year;
- (b) at the time of commencing that later employment–
 - (i) has other NHS employment as a non-GP provider in respect of which he or she is liable to pay contributions in accordance with paragraph (10); or
 - (ii) had previously been, but no longer is, in other service in respect of which he or she was liable to pay contributions in accordance with paragraph (10), (“the earlier service”); and
- (c) regardless of whether or not the non-GP provider also is, or previously also was, in NHS employment under Part 2 during the 2008–2009 scheme year,

the non-GP provider must continue to pay contributions in respect of the later employment at the same rate as that which applied to the earlier employment.

(12) If paragraph (11) applies and the non-GP provider had two or more earlier NHS employments, that non-GP provider must continue to pay contributions in respect of the later employment–

- (a) at the same rate as that which applied to whichever of the earlier employments was the last to cease; or
- (b) if all of those earlier NHS employments, or the last 2 or more of them, ceased on the same day, in accordance with paragraph (10).

(13) In any case where paragraph (1) applies and it is apparent at the time when the person becomes an active member in an employment under this Part that the member's pensionable pay in that employment includes any amount that is variable, that amount is to be taken as such amount as the employing authority consider appropriate for the 2008–09 scheme year and, in the case of a member who works part-time, is the variable amount that would be paid in respect of a comparable whole time employment.

(14) If a transfer payment from a corresponding health service scheme is accepted in respect of a person, the person is treated for the purposes of this regulation as if—

- (a) the person was an active member of the scheme during any period which the person was an active member of that scheme; and
- (b) the pay by reference to which the person’s benefits under that scheme were calculated was pensionable pay for the purposes of the scheme.

(15) If, apart from this paragraph, the pensionable pay determined for a scheme year in respect of a member’s employment would not be a whole number of pounds, it must be rounded down to the nearest whole pound.

Part-time employees

2.C.4.—(1) The pensionable pay for the 2008–2009 scheme year in respect of a member’s part time employment is such amount as would, in the opinion of the Scottish Ministers, be the pensionable pay for a comparable whole-time employment under which services of the kinds performed in the part time employment were performed on the assumption in paragraph (2).

(2) In forming that opinion, the Scottish Ministers must assume that the pensionable pay for the part time employment is the part-time amount.

(3) In paragraph (2) “the part-time amount” means the amount that would be the pensionable pay for the part-time employment if it were determined in the same way as the pensionable pay for a whole time employment is determined under regulation 2.C.3.

(4) If, apart from this paragraph, the pensionable pay for a scheme year in respect of a member’s part time employment would not be a whole number of pounds, it must be rounded down to the nearest whole pound.

Contributions by employing authorities

Contributions by employing authorities: general

2.C.5.—(1) Each employing authority must contribute to the scheme, in respect of each person who is an active member of the scheme in an employment with the authority, at such a rate as the Scottish Ministers specify from time to time.

(2) In specifying such a rate, the Scottish Ministers must take account of the cost of providing for any increase in pensions under the scheme as a result of orders made under the Pensions (Increase) Act 1971⁽¹⁾ and section 59 of the Social Security Pensions Act 1975⁽²⁾.

(3) Any contributions payable under this regulation must be paid to the Scottish Ministers on the same day as the member’s contributions under regulation 2.C.1.

(4) If for any period a person holds more than one employment with an employing authority in respect of which the person is an active member of the scheme, this regulation and regulation 2.C.6 apply in respect of each of those employments as if it were the only employment held.

(5) The rate for the period commencing on 1st April 2008 and ending on 31st March 2009 is 14 per cent.

⁽¹⁾ 1971 c. 56.

⁽²⁾ 1975 c. 60. Section 59 was amended by sections 1 and 7 of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c. 6) and Schedule 8 to the 1993 Act.

Contributions by employing authorities: members becoming entitled to pensions under regulation 2.D.11

2.C.6.—(1) If a pension becomes payable to a member under regulation 2.D.11 (early retirement on termination of employment by employing authority), the employing authority must make a contribution to the Scottish Ministers in respect of—

- (a) the cost of providing the pension under that regulation for the period between the member leaving the employment in which the member was an active member and reaching the age of 65; and
- (b) the cost of providing for any increase in the rate of the benefits referred to in sub paragraph (a) for that period as a result of orders made under section 59 of the Social Security Pensions Act 1975 (so far as not already met by contributions made under regulation 2.C.5(1)).

(2) If, on a pension under regulation 2.D.11 (early retirement on termination of employment by employing authority) becoming payable to a member in respect of the termination of the member’s employment with an employing authority (“the first authority”), a pension also becomes payable to the member in respect of pensionable service with one or more other employing authorities, the first authority must also make any additional contributions due in accordance with paragraph (1) in respect of that other pension.

(3) An employing authority is not responsible for meeting any costs in respect of the early payment of benefits to the extent that the benefits are attributable to contributions made under regulation 2.C.8, 2.C.10 or 2.C.11.

(4) Any contributions payable under this regulation must be paid—

- (a) except in a case falling within paragraph (b), by a single payment made within one month of the date on which the pension under regulation 2.D.11 became payable; or
- (b) if the Scottish Ministers agree, by not more than 5 equal annual instalments, the first of which is to be paid within one month of the date on which the pension under regulation 2.D.11 became payable and the others by 31st October in each of the following 4 scheme years.

(5) The following amounts must be determined by the Scottish Ministers on the advice of the scheme actuary—

- (a) the costs mentioned in paragraph (1);
- (b) the amount of the payment mentioned in paragraph (4)(a); and
- (c) the amount of each of the instalments payable under paragraph (4)(b).

Guarantees, indemnities and bonds

2.C.7.—(1) This regulation applies if—

- (a) an employing authority fails to pay contributions in accordance with regulation 2.C.5 or 2.C.6; and
- (b) the employing authority is—
 - (i) a GMS practice;
 - (ii) a HBPMS practice;
 - (iii) a section 17C agreement provider; or
 - (iv) an OOH provider.

(2) The Scottish Ministers may require the employing authority to have in force a guarantee, indemnity or bond which provides for payment to the Scottish Ministers, should that authority fail to meet them, of all future liabilities of the authority under—

- (a) this Part; or
- (b) the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998⁽³⁾.

(3) The guarantee, indemnity or bond must be in such form, in respect of such an amount and provided by such a person as the Scottish Ministers approve for the purpose.

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,

(3) S.I.1998/1451, as amended by S.I. 2001/3649, and 255, S.S.I. 2001/465, regulation 4 and Schedule 2, paragraph 2, S.S.I. 2004/62, regulation 3, S.S.I. 2006/307 and S.S.I. 2008/92.

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).

Repayment of contributions

Repayment of contributions

2.C.18.—(1) The contributions made by a member under this Chapter are not repayable in any circumstances except if—

- (a) paragraph (2) applies; or
- (b) Chapter 5 of Part 4 of the 1993 Act (early leavers: cash transfer sums and contribution refunds) applies and the payment is made in accordance with that Chapter.

(2) This paragraph applies if—

- (a) a person who is not a pensioner member ceases to be an active member and does not continue to be, or become, an active member for the purposes of Part 3 within 12 months of ceasing officer service;
- (b) the person does not fall within sub-paragraph (a), (b), (c) or (d) of regulation 2.D.1(2) (normal retirement pension);
- (c) paragraph (1)(b) does not apply; and
- (d) the person claims repayment of contributions under this regulation by applying in writing to the Scottish Ministers.

(3) If paragraph (1)(b) applies, the person is entitled to be paid the amount to which the person is entitled under Chapter 5 of Part 4 of the 1993 Act, less—

- (a) such part of any contributions equivalent premium paid in respect of the person as is permitted by or under section 61 of the 1993 Act; and
- (b) an amount equal to the income tax payable under section 205 of the Finance Act 2004 (short service refund lump sum charge) as a result of the repayment.

(4) If paragraph (2) applies, the person is entitled to be paid an amount equal to the sum of the contributions made by the person under this Chapter, less the amounts mentioned in paragraph (3) (a) and (b).

(5) If a repayment is made under this regulation, the member's rights under the scheme are extinguished unless the person or the person's spouse or civil partner is entitled to a guaranteed minimum pension under the scheme and a contributions equivalent payment has not been paid.

(6) A person—

- (a) who is entitled to a repayment of contributions under this regulation; and
- (b) whose pensionable service did not cease because the person's employment was terminated at the person's request,

is entitled to interest on the amount of the repayment unless the person's pensionable service ceased because the person's employment was terminated by reason of misconduct or inefficiency.

(7) Subject to paragraphs (8) and (9) the interest is calculated on a compound basis at the rate of 2.5 per cent per year, with yearly rests, for the period starting on 1st April after the contributions were paid and ending with the day the member leaves pensionable service.

(8) Paragraph (7) does not apply if paragraph (1)(b) applies and the person is entitled to a greater amount of interest under Chapter 5 of Part 4 of the 1993 Act.

(9) So far as the contributions were paid under another scheme and were included in a transfer payment to the scheme—

- (a) interest for the period before the transfer payment was made is calculated in accordance with the scheme making the transfer payment (subject to any provision made in any enactment applicable to the transfer); and

(b) paragraph (7) does not apply as respects that period.