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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 224**

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

**PART 3**

**BENEFITS FOR PRACTITIONERS, ETC.**

**CHAPTER 3.B**

**MEMBERSHIP**

*Joining and leaving the scheme*

**Joining the scheme**

**3.B.4.**—(1) A person entering employment with an employing authority in which the person is eligible to be an active member of the scheme becomes such a member, unless regulation 3.B.5(4) or 3.B.7 applies.

(2) A person who is eligible to be such a member by virtue of falling within regulation 3.B.1(3) (b) may opt to become such a member by giving notice in writing to the employing authority.

(3) A person who whilst an active member in any employment has exercised the option to opt out of the scheme under regulation 3.B.5(1) and is eligible to be an active member—

(a) in that employment; or

(b) in a later employment to which paragraph (1) does not apply because of regulation 3.B.5(5),

may opt to become an active member in the employment in which the member is eligible to be such a member by giving notice in writing to the employing authority in such form as the Scottish Ministers require.

(4) A notice under paragraph (3) takes effect—

(a) from the beginning of the first pay period to begin after the notice is received by the employing authority; or

(b) if the notice specifies a date that is the first day of a later pay period, from that date.

(5) A notice under paragraph (3) may not be given by a person who is absent from work for any reason.

(6) Paragraph (1) is subject to regulation 3.B.5(5).

**Opting out of the scheme**

**3.B.5.**—(1) A person who is an active member of the scheme in any employment may opt at any time to cease to be such a member by giving notice in writing to the person's employing authority.

(2) A person who so opts ceases to be such a member on the date the notice takes effect.

- (3) The notice takes effect—
- (a) from the beginning of the first pay period to begin after the notice is received by the employing authority; or
  - (b) if the notice specifies a later date, from the beginning of the first pay period after that in which the specified date falls.
- (4) A person within regulation 3.B.4(1) (automatic membership on entering employment) in respect of an employment who gives notice in writing under paragraph (1) before the end of the person’s first pay period in the employment is treated as not having become an active member under that regulation.
- (5) Regulation 3.B.4(1) does not apply to a person entering an employment with an employing authority (“the later employment”) if—
- (a) the person has previously given notice under paragraph (1) in respect of an employment with the same authority that has ceased (“the earlier employment”); and
  - (b) either—
    - (i) the period beginning with the day following that on which the earlier employment ceased and ending with the day before the later employment begins; or
    - (ii) the period beginning with the day following that on which a relevant intermediate employment ceased and ending with the day before the later employment begins, is less than 12 months.
- (6) An employment is a relevant intermediate employment for the purposes of paragraph (5) if—
- (a) regulation 3.B.4(1) did not apply to the person on entering it because of paragraph (5); and
  - (b) the person did not opt to become a member of the scheme in that employment under regulation 3.B.4(3).
- (7) A practitioner who opts not to contribute to the scheme in respect of his or her employment as a practitioner may, nevertheless, participate in the scheme in respect of concurrent employment as an officer under Part 2.

### **Restriction on further participation in the scheme**

**3.B.6.—**(1) A person who ceases to meet conditions A, B and C in regulation 3.B.1 in an employment or is prevented by regulation 3.B.2 from continuing to be an active member in an employment must cease to be an active member of the scheme in that employment.

- (2) Accordingly—
- (a) a person within paragraph (1) may not make any further contributions to the scheme under Chapter 3.C; and
  - (b) any further service of the person is not pensionable service for the purposes of the scheme.

### **Membership: locum practitioners**

**3.B.7.—**(1) Regulation 3.B.4 does not apply to a locum practitioner.

(2) A locum practitioner may apply to join the scheme by sending an application to the employing authority and submitting such evidence relating to his or her service as a locum practitioner and the contributions payable in respect of it as are required by the authority.

(3) On receiving such an application, such evidence and such contributions, the employing authority must submit the application to the Scottish Ministers.

(4) No application may be made under paragraph (2) in respect of a period of engagement as a locum practitioner ending earlier than 10 weeks before the date of the application.