
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 224

The National Health Service Pension
Scheme (Scotland) Regulations 2008

PART 4

BENEFITS IN CASES OF MIXED SERVICE

CHAPTER 4.A

INTRODUCTION

Application of Part 4

Application of Part 4

4.A.1.—(1) This Part applies where a member has pensionable service under both Part 2 and Part 3.

(2) Where this Part applies, Part 2 and Part 3 are subject to the modifications provided in this Part.

(3) As regards a person to whom the general rule in regulation 2.G.2 (general rule: separate treatment of service etc.) or regulation 3.G.2 (general rule: separate treatment of service etc.) applies, this Part applies separately to benefits in respect of the earlier service and the later service (as defined in regulation 2.G.1 or 3.G.1, as appropriate).

Preliminary

Interpretation: general

4.A.2 In this Part—

“the base amount” means the aggregate of the benefits that would be payable separately under Part 2 and Part 3 but for the operation of this Part;

“calculation method A” means the calculation method provided for in regulation 4.B.8;

“calculation method B” means the calculation method provided for in regulation 4.B.9;

“calculation method C” means the calculation method provided for in regulation 4.B.10;

“officer” has the same meaning as in Part 2;

“practitioner” has the same meaning as in Part 3;

“principal practitioner” means a practitioner as defined in Part 3 excluding a principal practitioner as defined in Part 3 who is employed by a GDS or PDS contractor (as defined in Part 3); and

“uprated earnings” has the same meaning as in Part 3.

CHAPTER 4.B
COMPARISON OF ENTITLEMENTS

Application of Chapter 4.B

Application of Chapter 4.B

4.B.1.—(1) This Chapter identifies the calculation method under which the benefits payable in respect of discrete periods of pensionable service as an officer are to be compared against the benefits that would have been payable had that service been service as a practitioner.

(2) The discrete periods of pensionable service as an officer that are subject to comparison are any periods of—

- (a) up to 10 years of pensionable service as an officer before first becoming a principal practitioner;
- (b) more than 10 years of pensionable service as an officer before first becoming a principal practitioner;
- (c) up to one year of employment as an officer after last ceasing to be a practitioner;
- (d) more than one year of employment as an officer after ceasing to be a practitioner;
- (e) less than one year of pensionable service as an officer concurrently with pensionable service as a practitioner; and
- (f) more than one year of pensionable service as an officer concurrently with pensionable service as a practitioner.

Officer service before practitioner service

Cases with up to 10 years of officer service

4.B.2.—(1) Where a member has not more than 10 years of pensionable service before first becoming a principal practitioner, the reference amount is the best of—

- (a) the amount determined by calculation method A;
- (b) the amount determined by calculation method B; and
- (c) where—
 - (i) the benefit is payable on retirement or death of the member; and
 - (ii) the condition is met,the base amount.

(2) The condition mentioned in paragraph (1)(c)(ii) is that—

- (a) the amount of pension payable under Part 2 would be greater than the amount of pension payable under Part 3, where—
 - (i) any enhancement for the purposes of regulation 2.D.8 (early retirement on ill health (active members)) or 3.D.7 (early retirement on ill health (active members)); as appropriate, are ignored;
 - (ii) any additional pension is disregarded; and
 - (iii) any increase under the Pensions (Increase) Act 1971 is applied; and
- (b) the amount determined by calculation method B is less than the base amount.

Cases with more than 10 years of officer service

4.B.3 Where a member has more than 10 years of pensionable service before first becoming a principal practitioner, the reference amount is the better of—

- (a) the amount determined by calculation method A; and
- (b) the base amount.

Officer service after practitioner service

Cases with less than one year of officer service

4.B.4 Where a member has been employed as an officer for less than one year after last ceasing to be a practitioner, the reference amount is the amount determined by calculation method A.

Cases with more than one year of officer service

4.B.5 Where a member has been employed as an officer for one year or more after ceasing to be a practitioner, the reference amount is the better of—

- (a) the amount determined by calculation method C; and
- (b) the base amount.

Concurrent officer and practitioner service

Cases with less than one year of concurrent officer service

4.B.6 Where a member has less than one year of pensionable service as an officer concurrently with pensionable service as a practitioner, the reference amount is the amount determined by calculation method A.

Cases with more than one year of concurrent officer service

4.B.7 Where a member has one year or more of pensionable service as an officer concurrently with pensionable service as a practitioner, the reference amount is the better of—

- (a) the amount determined by calculation method A; and
- (b) the base amount.

Calculation methods

Calculation method A

4.B.8 Calculation method A is the aggregate of—

- (a) the amount that would be payable under Part 3 if—
 - (i) the member's discrete period of pensionable service as an officer were treated as pensionable service as a practitioner; and
 - (ii) the amount of pensionable pay received in respect of that officer service were treated as pensionable earnings as a practitioner for the respective period;
- (b) the amount payable under Part 2 (if any) if the member's pensionable service as an officer were reduced by the discrete period of pensionable service as an officer in sub paragraph (a); and

- (c) the amount payable under Part 3 but for the operation of this Part.

Calculation method B

4.B.9 Calculation method B is the aggregate of—

- (a) the amount payable under Part 3 if the member's uprated earnings is increased by the formula—

$$UE \times \frac{LPSo + LPSp}{LPSp}$$

where—

UE is the amount of the member's uprated earnings;

LPSo is the length of the member's discrete period of pensionable service as an officer, expressed in days; and

LPSp is the length of the member's pensionable service as a practitioner, expressed in days, and

- (b) the amount payable under Part 2 (if any) if the member's pensionable service as an officer were reduced by the discrete period of pensionable service as an officer in paragraph (a).

Calculation method C

4.B.10 Calculation method C is the aggregate of—

- (a) the amount that would be payable under Part 3 if the member's pensionable earnings as a practitioner were uprated to the date of—
- (i) cessation of the employment as an officer; or
 - (ii) retirement,
- whichever is the earlier; and
- (b) the amount payable under Part 2.

CHAPTER 4.C

MODIFICATION OF BENEFITS

Members' retirement benefits

Top-up where reference amount greater than base amount

4.C.1.—(1) Where the reference amount calculated in any of regulations 4.B.2 (cases with up to 10 years of officer service) to 4.B.7 (cases with more than one year or more of concurrent officer service) is greater than the base amount, a top-up amount is payable.

(2) The top-up amount is equal to the aggregate of the amounts by which the reference amount is greater than the base amount in each of regulations 4.B.2 to 4.B.7 (where applicable).

(3) The top-up amount provided for under this regulation is treated as forming part of the member's pension for the purposes of increases payable under the Pensions (Increase) Act 1971, and is increased in the same manner to pensions payable under Parts 2 and 3.

Death benefits

Death benefits where member entitled to top-up

4.C.2.—(1) This regulation applies in relation to any benefit payable under Chapter 2.E (death benefit) of Part 2 and Chapter 3.E (death benefits) of Part 3 where the deceased member is (or would have been) entitled to a top up amount under regulation 4.C.1.

(2) In calculating the amount of the benefit payable under Chapter 2.E of Part 2, where that benefit is expressed to be a percentage or fraction of a pension that was in payment at the date of death of a member, or a percentage or fraction of a pension to which a deceased member would have become entitled in a particular circumstance, that pension shall be treated as being the pension payable to the member had no benefit been payable in respect of any discrete period of pensionable service as an officer that gives rise to a top-up payment under regulation 4.C.1.

(3) In calculating the amount of the benefit payable under Chapter 3.E of Part 3, where that benefit is expressed to be a percentage or fraction of a pension that was in payment at the date of death of a member, or a percentage or fraction of a pension to which a deceased member would have become entitled in a particular circumstance, that pension is treated as being the sum of—

- (a) the pension payable under Part 3; and
- (b) the top-up amount payable under regulation 4.C.1, inclusive of any increase payable under the Pensions (Increase) Act 1971 pursuant to paragraph (3) of that regulation.

CHAPTER 4.D

GENERAL MODIFICATIONS

year service limit

Pensionable service limit

4.D.1.—(1) Subject to paragraph (3), in determining whether or not a member has reached 45 years of pensionable service for the purposes of regulation 2.A.2 (meaning of “pensionable service”), the amount of pensionable service accrued under Part 3 is included in the aggregate calculated under paragraph (1) of that regulation.

(2) Subject to paragraph (3), in determining whether or not a member has reached 45 years of pensionable service for the purposes of regulation 3.A.3 (meaning of “pensionable service”), the amount of pensionable service accrued under Part 2 is included in the aggregate calculated under paragraph (1) of that regulation.

(3) Where a person is concurrently in officer service and practitioner service in any year, that year counts as a single year for the purpose of calculating 45 years pensionable service.

- (4) Where the aggregate of pensionable service under Part 2 and Part 3 is in excess of 45 years—
- (a) benefits under each of Part 2 and Part 3 are calculated by reference to such number of years as the Scottish Ministers determine;
 - (b) the aggregate of pensionable service under Part 2 and Part 3 determined in sub paragraph (a) is 45 years; and
 - (c) the Scottish Ministers must select the years by reference to which the benefits under each Part are to be calculated, selecting the years which produce the most favourable result to the member.

Claims and notices

Applications, claims and notices

4.D.2.—(1) An application or claim made or a notice given for the purposes of a regulation listed in column 1 of the following table shall be treated as an application or claim made or notice given for the purposes of the corresponding regulation in column 2 (and vice versa).

Table

<i>Column 1</i> <i>Regulation in Part 2</i>	<i>Column 2</i> <i>Regulation in Part 3</i>
<i>2.D.8</i>	<i>3.D.7</i>
<i>2.D.10</i>	<i>3.D.9</i>
<i>2.D.14</i>	<i>3.D.10</i>
<i>2.E.21</i>	<i>3.E.21</i>
<i>2.F.2</i>	<i>3.F.2</i>
<i>2.F.3</i>	<i>3.F.3</i>

Abatement

Reduction of pension

4.D.3.—(1) The pension payable under Part 3 is reduced in accordance with Chapter 3.H (abatement) but with the following modifications—

- (a) relevant income includes the enhancement amount determined under regulation 2.H.4(2) (meaning of “relevant income”); and
- (b) the member’s previous earnings in respect of the member’s practitioner service are increased by the amount of the member’s previous pay in respect of the member’s officer service.

(2) Where the reduction applied under the modified Part 3 is not the full amount of the excess determined under that modified Part, such part of the excess as has not given rise to a reduction in the old service pension in Part 3 is the excess for the purposes of regulation 2.H.3(3) (reduction of pension).