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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.D**

**MEMBERS' RETIREMENT BENEFITS**

*Entitlement to pensions*

**Re-assessment of entitlement to an ill health pension determined under regulation 3.D.7**

**3.D.8.**—(1) This regulation applies if—

- (a) in the opinion of the Scottish Ministers a member meets the condition in regulation 3.D.7(2)(a); and
- (b) at the time the member is awarded a pension under that regulation the Scottish Ministers give the member notice in writing that the member's case may be considered once within a period of 3 years commencing with the date of that award to determine whether the member meets the condition in regulation 3.D.7(3)(a) at the date of such a consideration.

(2) A member to whom such a notice under paragraph (1)(b) has been given may apply to the Scottish Ministers for a review of whether he or she subsequently meets the condition in regulation 3.D.7(3)(a) if—

- (a) the member makes the application in writing within 3 years of the date of issue of the notice;
- (b) the request is accompanied by further written medical evidence—
  - (i) relating to whether the condition in regulation 3.D.7(3)(a) is satisfied at the date of the Scottish Ministers' review; and
  - (ii) that relates to the same physical or mental infirmity as a result of which the member met the condition in regulation 3.D.7(2)(a); and
- (c) no previous application has been made under this paragraph.

(3) If, after considering the further medical evidence provided by the member, the Scottish Ministers determine that the member meets the condition in regulation 3.D.7(3)(a), then as from the date on which that determination is made the member—

- (a) ceases to be entitled to a lower tier ill health pension; and
- (b) becomes entitled to an upper tier ill health pension under regulation 3.D.7, which shall be calculated as if paragraph (8) of that regulation included the words “from the date of the Scottish Ministers' determination under regulation 3.D.8” after “continued in service”.