STATUTORY INSTRUMENTS

1998 No. 1451

The National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998

PART II

Additional Voluntary Contributions

Making and acceptance of elections

3.—(1) Subject to paragraph (3), a person in pensionable employment may elect to pay contributions under these Regulations–

(a) for investment under regulation 7(1) to provide for an annuity payable on retirement;

(b) for investment under regulation 7(2) to provide for a lump sum death benefit.

(2) An election under paragraph (1) may relate to contributions to be paid by, or on behalf of, the contributor or contributions to be paid by the contributor's employer or both.

(3) An election under paragraph (1) shall not have effect if the person making it–

(a) is on leave of absence from work on the date on which the notice of such an election is received by the Secretary of State;

(b) is not receiving tax relief under section 594(1) of the Taxes Act (exempt statutory schemes) or otherwise in respect of contributions paid under regulation D1 of the 1995 Regulations.

(4) An election under paragraph (1) shall be made by giving written notice to the Secretary of State specifying–

(a) whether the election relates to paragraph (1)(a) or (b), or both;

(b) the amount of the contributions; and

(c) in relation to contributions for the purpose of investment under regulation 7(1), the authorised fund or funds in which the contributions are to be invested,

and, subject to paragraph (5), shall be accepted by him.

(5) The Secretary of State shall not accept an election under paragraph (1)–

(a) where any limit imposed by regulation 4(3), 4(4) or 13 (limits on contributions and benefits) would be exceeded; or

(b) in the case of an election under paragraph (1)(b) to provide for a lump sum on death, unless he is satisfied that the election is made in accordance with the requirements of regulation 16(2) and that at the time of making an election the person is in good health and that there is no reason why his health should prevent him from making contributions.

(6) Subject to paragraph 5(b) above and regulation 4(4), where contributions are paid until the contributor's 60th birthday and the contributor does not then cease to be in pensionable employment, an election may be made to pay further contributions up to the contributor's 61st birthday to provide for a lump sum death benefit; and so long as the contributor has not ceased to be in pensionable employment, further elections may be made annually in respect of subsequent years.

(7) For the purposes of paragraphs (1) and (6), an election shall have effect from the date when the election is accepted by the Secretary of State.

Payment and amount of additional voluntary contributions

4.—(1) Contributions under these Regulations may be made by way of weekly, monthly or quarterly payments or by way of a single payment.

(2) The contributor's employer may deduct any amount payable by the contributor from the contributor's salary, and such deductions shall commence to be made from the salary in respect of the first whole pay period falling after the date the employer receives authorisation to make those deductions and shall be remitted to the Secretary of State as soon as reasonably practicable but not later than 10 days following the pay period in which the contributions are deducted.

(3) Subject to paragraph (4), in any period of 12 months beginning on 6th April in any year the total contributions payable by the contributor must not exceed

the lesser of A and B

where–

A is 15 per cent of the contributor's salary less the total of any contributions in respect of that year paid by the contributor–

(i) to another approved scheme;

(ii) to a free standing additional voluntary contribution scheme;

(iii) under the 1995 Regulations;

B is the amount which would be likely to provide benefits of the largest amounts allowed by regulation 13.

(4) In the case of an election under regulation 3(1)(b) to provide for a lump sum death benefit, contributions payable by virtue of that election, or any election under regulation 3(6) or 5(2)(a), may not, at the date on which the Secretary of State accepts the election, be of such an amount as to provide for a lump sum death benefit in excess of the permitted amount under paragraph 15(4) of the Schedule.

Variation and cancellation of elections

5.—(1) A contributor who has elected under regulation 3(1)(a) to pay contributions for the purpose of investment under regulation 7(1) may at any time by giving written notice to the Secretary of State–

(a) subject to regulation 4(3), alter the amount of the contributions;

(b) require the whole or part of them to be invested in future in some other authorised fund;

(c) require the Secretary of State to realise the whole or part of any investments made and to reinvest the proceeds in some other authorised fund; or

(d) cancel the election.

(2) A contributor who has elected under regulation 3(1)(b) to pay contributions to provide a lump sum death benefit under regulation 7(2) may at any time by giving written notice to the Secretary of State–

(a) subject to regulation 4(3) and (4) and provided he is not absent from work or his health is such that the Secretary of State would not accept an election under regulation 3(1)(b), elect that a specified larger sum is to be secured and the contributions increased accordingly; or

(b) cancel the election.

(3) The Secretary of State shall give effect as soon as is reasonably practicable to the terms of any notice given under this regulation.

Circumstances in which elections cease to have effect

6. An election shall cease to have effect where a contributor–

(a) receives payment of benefits under any of regulations E1 to E6 of the 1995 Regulations except where the contributor is entitled to accrue further benefits in the circumstances described in regulation B3(2) of those Regulations;

(b) leaves pensionable employment;

(c) ceases to be in pensionable employment by virtue of an election under regulation B4 of the 1995 Regulations; or

(d) ceases to receive tax relief under section 594(1) of the Taxes Act (exempt statutory schemes) or otherwise in respect of contributions paid under regulation D1 of the 1995 Regulations.

Investment of additional voluntary contributions

7.—(1) Any contributions paid in respect of a contributor for investment under this paragraph shall be invested by the Secretary of State in accordance with any notice under regulation 3(4) or 5(1).

(2) Any contributions paid in respect of a contributor to provide for a lump sum death benefit under this paragraph shall be paid by the Secretary of State to an insurance company selected by him so as to secure the payment of a lump sum death benefit of the amount required by any notice under regulation 3(4) or 5(2).

Inward transfers

8.—(1) Where a person who enters pensionable employment has during any previous employment paid contributions to–

(a) a free-standing additional voluntary contributions scheme; or

(b) an approved scheme which provides additional benefits through additional voluntary contributions but does not fall within section 591(2)(h) of the Taxes Act (discretionary approval),

that person, whether or not he becomes a contributor within the meaning of these Regulations, may, within 12 months of entering pensionable employment, or such longer period as the Secretary of State may in any particular case allow, give written notice to the Secretary of State that he wishes him to accept from the trustees or managers of such a scheme a transfer value representing the value of the investments derived from his contributions.

(2) Where a transfer value is accepted by the Secretary of State it shall be invested by him, in accordance with the wishes of the person entering pensionable employment, in one or more of the authorised funds.

(3) Where a transfer value is invested under paragraph (2) the person may at any time, by giving written notice to the Secretary of State, require the Secretary of State to realise the whole or part of the sums so invested and to reinvest the proceeds in a different way.

Inward transfers: mis-sold pensions

9.—(1) This regulation shall apply to a person to whom regulation B6(**1**) of the 1995 Regulations (opting into the scheme: mis-sold pensions) applies in respect of whom a transfer payment within the meaning of regulation N3A(**2**) of those Regulations has been paid by a personal pension scheme to the Secretary of State.

(2) Subject to paragraph (3), where, at any time, a person to whom this regulation applies elects to rejoin the scheme under regulation B5 of the 1995 Regulations, that person, whether or not he becomes a contributor within the meaning of these Regulations, may, within 12 months of rejoining the scheme, or such longer period as the Secretary of State may in any particular case allow, give written notice to the Secretary of State that he wishes him to accept, for the purposes of these Regulations, a transfer value.

(3) For the purposes of paragraph (2), the transfer value shall be of an amount representing the difference between–

(a) the capitalised value of the accrued rights to benefit in the personal pension scheme from which the transfer value is paid which is attributable to contributions made to that scheme by the person referred to in paragraph (1) during his opted-out service; and

(b) the amount referred to in regulation N3A(2)(a) of the 1995 Regulations.

(4) Where a transfer value is accepted by the Secretary of State it shall be invested by him, in accordance with the wishes of the person referred to in paragraph (1), in one or more of the authorised funds.

(5) Where a transfer value is invested under paragraph (4) the person referred to in paragraph (1) may at any time, by giving written notice to the Secretary of State, require the Secretary of State to realise the whole or part of the sums so invested and to reinvest the proceeds in a different way.

(6) In this regulation–

"opted-out service" means the period of NHS employment in respect of which the Secretary of State has approved an additional period of pensionable service for the purposes of regulation N3A(2)(a) of the 1995 Regulations; and

"personal pension scheme" has the meaning given by regulation B6(4) of the 1995 Regulations.

Outward transfers

10.—(1) Subject to paragraph (2), the Secretary of State shall, in circumstances where a transfer payment in respect of a person is provided and used in accordance with regulation M1 of the 1995 Regulations, pay a transfer value representing the value of investments made under regulation 7(1), 8(2) or 9(4) at that person's option to one of the following schemes in which that person may be participating:–

(a) an approved scheme which provides additional benefits through additional voluntary contributions but does not fall within section 591(2)(h) of the Taxes Act (discretionary approval);

(b) a personal pension scheme; or

(c) any other arrangement which has been approved by the Board of Inland Revenue to accept transfer payments, provided that the transfer value shall not be used to purchase benefits in the form of a tax free lump sum.

(2) Where the Secretary of State is required to make a transfer payment he shall do so by whichever is the earlier of–

(**1**) Regulation B6 was inserted by S.I.1997/1434.
(**2**) Regulation N3A was inserted by S.I. 1997/1434.

(a) the date being a date within six months of the guarantee date; or

(b) if the person in respect of whom the transfer payment is to be made–

(i) ceased to be subject to the 1995 Regulations on a date prior to his attaining the age of 59 years, and

(ii) made his application for a transfer payment within 6 months of that date,

the date on which he attains age 60.

(3) In this regulation "the guarantee date" has the meaning given to it in section 93A(2) of the Pension Schemes Act 1993(**3**).

(**3**) 1993 c. 48; section 93A was inserted by section 153 of the Pensions Act 1995 (c. 26).