

2011 No. 53

NATIONAL HEALTH SERVICE

The National Health Service (Superannuation Scheme and Pension Scheme) (Scotland) Amendment Regulations 2011

Made - - - - - *27th January 2011*

Laid before the Scottish Parliament *1st February 2011*

Coming into force - - - *1st April 2011*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 10 of, and Schedule 3 to, the Superannuation Act 1972(a), and of all other powers enabling them to do so.

In accordance with section 10(1) of that Act, these Regulations are made with the consent of the Treasury(b).

In accordance with section 10(4) of that Act, the Scottish Ministers have consulted with such representatives of persons likely to be affected by these Regulations as appear to them to be appropriate.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service (Superannuation Scheme and Pension Scheme) (Scotland) Amendment Regulations 2011.

(2) These Regulations come into force on 1st April 2011.

Amendment of the National Health Service Superannuation Scheme (Scotland) Regulations 1995

2.—(1) The National Health Service Superannuation Scheme (Scotland) Regulations 1995(c) are amended as follows.

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- (a) 1972 c.11. Section 10 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7) sections 4(2), 8(5) and (6), the Pension Schemes Act 1993 (c.48), Schedule 8, paragraph 7 and the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649), article 108. The functions of the Secretary of State, in or as regards Scotland, were transferred to Scottish Ministers by virtue of article 2 of and Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).
- (b) See the Superannuation Act 1972, section 10(1). This function was transferred to the Treasury by virtue of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2 and is still exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.
- (c) S.I. 1995/365 amended by S.I. 1997/1434 and 1916, 1998/1593, 1999/443, 2001/3649, 2005/2011 and 2010/234 and S.S.I. 2001/437 and 465, 2003/55, 270 and 517, 2005/445, 512 and 544, 2006/307 and 561, 2008/92 and 226, 2009/19 and 208 and 2010/22 and 369.

- (2) In regulation Q17 (revaluation of increases bought under options: members' pensions)—
- (a) in paragraph (3), for “paragraph (5)” substitute “whichever of paragraphs (5) and (5A) applies”;
 - (b) in paragraph (5), for “The calculation” substitute “If the member exercised the option on or before 31st March 2011, the calculation”;
 - (c) after paragraph (5), add—
 - “(5A) If the member exercised the option on or after 1st April 2011, the calculation referred to in paragraph (3) is as follows—
- Step 1 – Calculate the basic amount of the increase in accordance with regulations Q14 to Q16, to find the Step 1 amount.
 - Step 2 – Multiply the Step 1 amount by the prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.
 - Step 3 – Divide the Step 2 amount by the prices index for the month in which the option was exercised, to find the Step 3 amount.
 - Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.
 - Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
 - Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.
 - Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).”
- (d) in paragraph (6), after the definition of “the beginning date” add—
 - ““the prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purposes of the Pensions (Increase) Act 1971”.

Amendment of the National Health Service Pension Scheme (Scotland) Regulations 2008

3.—(1) The National Health Service Pension Scheme (Scotland) Regulations 2008(a) are amended as follows.

- (2) In regulation 2.C.17 (revaluation of increases bought under options: members' pensions)—
- (a) in paragraph (3), for “paragraph (5)” substitute “whichever of paragraphs (5) and (5A) applies”;
 - (b) in paragraph (5), for “The calculation” substitute “If the member exercised the option on or before 31st March 2011, the calculation”;
 - (c) after paragraph (5), add—
 - “(5A) If the member exercised the option on or after 1st April 2011, the calculation referred to in paragraph (3) is as follows—
- Step 1 – Calculate the basic amount of the increase in accordance with regulations 2.C.14 to 2.C.16, to find the Step 1 amount.
 - Step 2 – Multiply the Step 1 amount by the prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.

(a) S.S.I. 2008/224 amended by S.S.I. 2009/19 and 208 and 2010/22 and 369.

- Step 3 – Divide the Step 2 amount by the prices index for the month in which the option was exercised, to find the Step 3 amount.
- Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.
- Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
- Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.
- Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).”

(d) at the end of paragraph (6), after the definition of “the beginning date” add—

““the prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purposes of the Pensions (Increase) Act 1971”.

(3) In regulation 3.C.15 (revaluation of increases bought under options: members’ pensions)—

- (a) in paragraph (3), for “paragraph (5)” substitute “whichever of paragraphs (5) and (5A) applies”;
- (b) in paragraph (5), for “The calculation” substitute “If the member exercised the option on or before 31st March 2011, the calculation”;
- (c) after paragraph (5), add—
“(5A) If the member exercised the option on or after 1st April 2011, the calculation referred to in paragraph (3) is as follows—

- Step 1 – Calculate the basic amount of the increase in accordance with regulations 3.C.12 to 3.C.14, to find the Step 1 amount.
- Step 2 – Multiply the Step 1 amount by the prices index for the second month before the month in which the increase in pension will become payable, to find the Step 2 amount.
- Step 3 – Divide the Step 2 amount by the prices index for the month in which the option was exercised, to find the Step 3 amount.
- Step 4 – Take the greater of the Step 1 amount and Step 3 amount, to find the Step 4 amount.
- Step 5 – Add to the Step 4 amount an amount that is equal to any increases that would be due under the Pensions (Increase) Act 1971 on a pension of the same amount as the Step 4 amount when it first falls into payment, to find the Step 5 amount.
- Step 6 – Divide the Step 5 amount by the Step 4 amount, to find the Step 6 factor.
- Step 7 – Divide the Step 4 amount by the Step 6 factor to find the final amount referred to in paragraph (1).”

- (d) at the end of paragraph (6), after the definition of “the beginning date” add—
““the prices index” means, as regards any month, the change in the general level of prices for that month used to determine increases to official pensions for the purposes of the Pensions (Increase) Act 1971”.

St Andrew’s House,
Edinburgh
20th January 2011

JOHN SWINNEY
A member of the Scottish Executive

We consent

27th January 2011

ANGELA WATKINSON
JEREMY WRIGHT
Two of the Lord’s Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I. 1995/365) (“the 1995 Regulations”) and the National Health Service Pension Scheme (Scotland) Regulations 2008 (S.S.I. 2008/224) (“the 2008 Regulations”).

Regulation 2 amends regulation Q17 (revaluation of increases bought under options: members’ pensions) of the 1995 Regulations to draw a distinction between increases in a member’s pension where the option to purchase such an increase has been exercised on or before 31st March 2011 and where the option was exercised on or after 1st April 2011. In the case of the former, the calculation of the increase relies in part on the retail prices index. In the case of the latter, the calculation of that increase relies in part on the “prices index” which is defined in such a way as to link to the Pensions (Increases) Act 1971 and increases to official pensions under that Act.

Regulation 3 amends regulations 2.C.17 and 3.C.15 (which deal with the revaluation of increases bought under options: members’ pensions for officers and practitioners respectively) of the 2008 Regulations in the same way as regulation 2 amends regulation Q17 of the 1995 Regulations.

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