SCOTTISH STATUTORY INSTRUMENTS

2024 No.

NATIONAL HEALTH SERVICE

The National Health Service Superannuation and Pension Schemes (Miscellaneous Amendment) (Scotland) Regulations 2024

Made - - - - 1st October 2024

Laid before the Scottish Parliament 3rd October 2024

Coming into force - - 29th November 2024

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10 and 12 and schedule 3 of the Superannuation Act 1972([[1]](#footnote-2)), sections 1(1) and (2)(e) and 3(1), (2) and (3) of, and paragraph 5(b) of schedule 2, and schedule 3 of, the Public Service Pensions Act 2013([[2]](#footnote-3)) and all other powers enabling them to do so.

In accordance with section 10(4) of the Superannuation Act 1972, the Scottish Ministers have consulted with such representatives of persons likely to be affected by these Regulations as appear to them to be appropriate.

In accordance with section 22(2)(a) of the Public Service Pensions Act 2013, the Scottish Ministers consulted the representatives of such persons as appeared to them likely to be affected by these Regulations. In accordance with section 22(2)(b) of that Act, the Scottish Ministers laid before the Scottish Parliament a report concerning the changes to members’ contribution rates under the NHS Pension Scheme (Scotland) 2015([[3]](#footnote-4)) made by these Regulations.

In accordance with section 3(5) of the Public Service Pensions Act 2013, these Regulations are made with the consent of the Treasury.

PART 1

Introductory

Citation, commencement and effect

1. —(1) These Regulations may be cited as the National Health Service Superannuation and Pension Schemes (Miscellaneous Amendment) (Scotland) Regulations 2024 and come into force on 29 November 2024.
   1. Regulation 57 has effect from 1 April 2015, but only for the purposes of sub-paragraph (3)(c).
   2. Regulations 3 to 5 have effect from 1 November 2022.
   3. Regulations 21, 24 to 26, 31, 45, 46, 53, 55, 72 and 73 have effect from 1 April 2023.
   4. Regulations 8, 9, 11 to 20, 22, 23, 27, 34, 41, 48, 56, 59 to 67 and 69 have effect from 1 October 2023.
   5. Regulations 7, 10, 29, 30, 32, 33, 35 to 39, 42, 43, 44, 47, 49 to 52, 57 (for all other purposes), 68 and 74 have effect from 1 April 2024.

PART 2

Modifications of restrictions on return to work

Duration of modifications in this Part

1. The modification in regulation 3 applies until the end of 31 March 2025 and the modifications in regulations 4 and 5 apply until the end of 31 March 2023.

Modification of the National Health Service Superannuation Scheme (Scotland) Regulations 2011

1. The National Health Service Superannuation Scheme (Scotland) Regulations 2011([[4]](#footnote-5)) have effect as if in the opening words of regulation S2(4) (reduction of pension on return to NHS employment) the words “or (c)” were omitted.

Modification of the National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013

1. The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013([[5]](#footnote-6)) have effect as if the following regulations were omitted—
   * 1. regulation 2.D.6(2)(a) (abatement of pension following increase in pensionable pay), and
     2. regulation 3.D.6(2)(a) (abatement of pension following increase in engagement in employment).

Modification of the National Health Service Pension Scheme (Scotland) Regulations 2015

1. The National Health Service Pension Scheme (Scotland) Regulations 2015([[6]](#footnote-7)) have effect as if regulation 85(3) (abatement of pension following continuation of employment) were omitted.

PART 3

Amendment of the National Health Service Superannuation Scheme (Scotland) Regulations 2011

1. The National Health Service Superannuation Scheme (Scotland) Regulations 2011 are amended in accordance with this Part.

Amendment of regulation A2

1. In regulation A2 (interpretation), at the appropriate places insert—

“approved salary sacrifice arrangement” means an arrangement specified by the scheme manager under which the member gives up the right to receive part of their salary in return for their employer agreeing to provide the member with benefits in kind as specified by the scheme manager;

“lump sum and death benefit allowance” in relation to a person, has the meaning given in section 637R of the Income Tax (Earnings and Pensions) Act 2003([[7]](#footnote-8));

“salary sacrifice arrangement” means an arrangement under which the member gives up the right to receive an amount of pensionable pay in return for the provision of a benefit in kind;.

Amendment of regulation C1

1. —(1) Regulation C1 (meaning of “pensionable pay”) is amended as follows.
   1. In paragraph (1)(a), after “salary, wages, fees”, insert “, any amount equal to any part of salary given up under an approved salary sacrifice arrangement,”.
   2. In paragraph (12), for “paragraph (13)”, substitute “paragraphs (13) and (13A)”.
   3. After paragraph (13), insert—

(13A) If a member becomes entitled to a pension under regulation E11A (partial retirement pension), “final year’s pensionable pay” means pensionable pay in respect of the year immediately preceding the day on which the reduction in the member’s pensionable pay takes effect by virtue of which the member becomes entitled to the partial retirement pension..

IVAN McKEE

Authorised to sign by the Scottish Ministers

St Andrew’s House,

Edinburgh

1st October 2024

We consent

JEFF SMITH

ANNA TURLEY

Two of the Lords Commissioners of His Majesty’s Treasury

1st October 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the fifth commencement regulations bringing into force provision in the Levelling-up And Regeneration Act 2023 (c. 55) (“the Act”).

The provisions of the Act specified in regulation 2 come into force on 1st November 2024. Those provisions are—

* + 1. section 237 (childcare: use of non-domestic premises), and Schedule 23 (use of non-domestic premises for childcare registration) as introduced by that section; and
    2. section 238 (childcare: number of providers).

The provision brought into force by these Regulations amends Part 3 of the Childcare Act 2006 (c. 21) (“the 2006 Act”) (regulation of provision of childcare in England).

**Heading here**

Section 237(1) of the Act amends the definitions of “early years childminding” and “later years childminding” in sections 96(4) and (8) of the Childcare Act 2006 respectively (those provisions coming within Part 3 of the 2006 Act), by removing the requirement that at least half of the provision must be provided on domestic premises. Subsection (2) introduces Schedule 23 (use of non-domestic premises for childcare registration) which makes further amendments to Part 3 of the 2006 Act relating to the registration of persons providing childminding wholly on non-domestic premises.

1. List item one
2. Second list item

Section 238 amends sections 96(5) and (9) of the 2006 Act, substituting the word “three” with “four”. The effect of this change is to increase the number of other childminders or assistants that childminders may work with from two to three (four people in total). It also increases, from four to five, the minimum number of people that must work together to provide “childcare on domestic premises” (provision that would be childminding, at least some or all of which is on domestic premises, but for the operation of sections 96(5) and (9) of the Childcare Act 2006).

The Schedules to these Regulations make transitional provision in relation to the provision these Regulations bring into force.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Levelling-up and Regeneration Act 2023 have been brought into force by commencement Regulations made before the date of these Regulations.

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| Provision | Date of Commencement | S.I. No. |
| Section 78 | 31.01.2024 | S.I. 2024/92 |
| In Schedule 19—  (a) paragraph 1 (partially);  (b) paragraph 1 (partially);  (c) paragraphs 2 and 3 (partially) | 31.01.2024  30.04.2024  31.03.2024 | S.I. 2024/92  S.I. 2024/389  S.I. 2024/389 |
| Schedule 22 | 31.03.2024 | S.I. 2024/389 |

1. () 1972 c. 11. Section 10 was amended by Part II of schedule 7 of the National Health Service (Scotland) Act 1972 (c. 58), schedule 5 of the National Health Service Reorganisation Act 1973 (c. 32), sections 4(2) and 8(5) and (6) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) (“the 1990 Act”), paragraph 7 of schedule 8 of the Pensions Schemes Act 1993 (c. 48), paragraph 10 of schedule 8 of the Public Service Pensions Act 2013 (c. 25) and S.I. 2001/3649. Section 12 was amended by section 10 of the 1990 Act. The functions of the Secretary of State, in or as regards Scotland, were transferred to the Scottish Ministers by virtue of article 2 and schedule 1 of S.I. 1999/1750. [↑](#footnote-ref-2)
2. () 2013 c. 25. [↑](#footnote-ref-3)
3. () The pension scheme established by S.S.I. 2015/94 is to be known in terms of regulation 2(2) of that instrument as the NHS Pension Scheme (Scotland) 2015. [↑](#footnote-ref-4)
4. () S.S.I. 2011/117, relevantly amended by S.S.I. 2022/117. [↑](#footnote-ref-5)
5. () S.S.I. 2013/174, relevantly amended by S.S.I. 2022/117. [↑](#footnote-ref-6)
6. () S.S.I. 2015/94, relevantly amended by S.S.I. 2022/117. [↑](#footnote-ref-7)
7. () 2003 c. 1. Section 637R was inserted by the Finance Act 2024 (c. 3). [↑](#footnote-ref-8)