
STATUTORY INSTRUMENTS

1995 No. 365

**The National Health Service Superannuation
Scheme (Scotland) Regulations 1995**

PART E

BENEFITS FOR MEMBERS

Normal retirement pension

E1.—(1) A member who retires from pensionable employment at any time on or after attaining age 60 shall be entitled to a pension under this regulation at a yearly rate of 1/80th of final year's pensionable pay for each complete year of pensionable service, plus the relevant daily proportion of that rate for each additional day of such service.

(2) A member who stays in pensionable employment until age 70 shall be entitled to receive a pension under this regulation at that age even if he does not retire from such employment.

Early retirement pension (ill health)

E2.—(1) A member who retires from pensionable employment because of physical or mental infirmity that makes him permanently incapable of efficiently discharging the duties of that employment shall be entitled to receive an immediate pension under this regulation if he has at least 2 years' qualifying service or qualifies for a pension under regulation E1 (normal retirement pension).

(2) Subject to paragraph (3), the pension under this regulation will be calculated as described in regulation E1 (normal retirement pension).

(3) If the member retires from pensionable employment before reaching age 65 and satisfies the requirements of any of paragraphs (4) to (6), the pensionable service upon which the pension is based, excluding any additional service purchased under regulation Q1 or additional service under regulation R3(5), will be increased as described in whichever of paragraphs (4) to (6) is applicable or, if both of paragraphs (5) and (6) apply, as described in whichever of those paragraphs is more favourable to the member.

(4) If the member has at least 5 years' qualifying service but not more than 10 years' pensionable service, the pension will be based on the shorter of—

- (a) twice the member's pensionable service; and
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until age 65.

(5) If the member has more than 10 but not more than 20 years' pensionable service, the pension will be based on the shorter of—

- (a) the pensionable service the member could have completed if he had stayed in pensionable employment until age 65; and
- (b) 20 years' pensionable service.

(6) If the member has more than 10 years' pensionable service and has not reached age 60, the pension will be based on the shortest of—

- (a) the member's actual pensionable service increased by a period of 6 years and 243 days;
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until age 60; and
- (c) 40 years' pensionable service.

(7) Subject to paragraph (8), where a member becomes entitled to a pension under paragraph (1), the Secretary of State may discharge his liability for that pension by the payment of a lump sum.

(8) A lump sum payment under paragraph (7) may be made only if the Secretary of State is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member.

(9) For the purpose of paragraph (8), the Secretary of State may require whatever medical evidence that he considers necessary.

(10) The amount of the lump sum payable under paragraph (7) will be equal to (a) 5 times the difference between the yearly rate of the member's pension calculated in accordance with this regulation and the annual rate of the member's guaranteed minimum pension or, if lower, (b) twice the member's final year's pensionable pay less the member's lump sum on retirement payable under regulation E7 (which shall not be subject to any reduction under regulation E8); and the amount of the lump sum shall be payable in addition to the retirement lump sum payable under regulation E7 (which shall not be subject to any reduction under regulation E8).

(11) Where a member to whom a pension is payable under this regulation returns to NHS employment, that employment may be pensionable under the scheme provided that the member is under the age of 50 at the date on which he returns to NHS employment.

(12) Where further employment becomes pensionable by virtue of paragraph (11), the subsequent period of pensionable employment shall be treated separately from all other pensionable employment for the purposes of calculating the member's benefits.

Early retirement pension (redundancy etc.)

E3.—(1) A member whose pensionable employment is terminated shall be entitled to receive an immediate pension if:

- (a) the member has at least 5 years' qualifying service and has reached age 50; and
- (b) the Secretary of State is satisfied that the member's employment is terminated by reason of redundancy or in the interests of the efficiency of the service in which he is employed.

(2) The pension under this regulation will be calculated as described in regulation E1 (normal retirement pension).

(3) A member to whom a pension is payable under this regulation may continue in pensionable employment in relation to other concurrent employment which was pensionable at the date on which the member left the employment in respect of which the pension under this regulation is payable.

Early retirement pension (employer's consent)

E4.—(1) A member with at least 2 years' qualifying service, who retires from pensionable employment at any time after reaching age 50 shall, if the relevant employing authority agrees to meet the cost described in regulation D2(3)(a) (plus any supplement or increase in that cost under regulation D2(3)(b), (d) or (e)), be entitled to an immediate pension under this regulation.

(2) The pension under this regulation will be calculated as described in regulation E1 (normal retirement pension).

Early retirement pension (with actuarial reduction)

E5.—(1) A member with at least 2 years' qualifying service, who retires from pensionable employment at any time after reaching age 50 but before reaching age 60 shall, if a request is made in writing to the Secretary of State, be entitled to payment of an immediate pension.

(2) The pension under this regulation will be calculated as described in regulation E1 (normal retirement pension) but it will then be reduced by such amount as the Secretary of State, after consulting the Government Actuary, may determine.

(3) Where a pension is payable under paragraph (1), any additional amount payable under these Regulations shall also become payable and be reduced in like manner as described in paragraph (2).

(4) A member shall not be entitled to a pension under this regulation if the Secretary of State determines, having taken advice from the Government Actuary, that the pension, as reduced under paragraph (2), would be insufficient to meet the liability to provide a guaranteed minimum pension.

Preserved pension

E6.—(1) Subject to paragraphs (3) and (4), a member who leaves pensionable employment before age 60 without becoming entitled to an immediate pension under any of regulations E1 to E5 shall be entitled to receive a pension and retirement lump sum under this regulation from age 60 if—

- (a) the member leaves with at least 2 years' qualifying service, or
- (b) a transfer payment has been made to the scheme in respect of the member's rights under a personal pension scheme.

(2) The pension under this regulation will be calculated as described in regulation E1 (normal retirement pension) and the retirement lump sum will be calculated as described in regulation E7.

(3) The member will become entitled to receive the pension and retirement lump sum under this regulation before age 60 if—

- (a) the member is in NHS employment and the Secretary of State is satisfied that the member is permanently incapable by reason of physical or mental infirmity of efficiently discharging the duties of that employment;
- (b) the member is not in NHS employment and the Secretary of State is satisfied that the member is suffering from mental or physical infirmity that makes the member permanently incapable of engaging in regular employment; or
- (c) some other benefit becomes payable to the member under regulations E2 to E5 (pensions for members).

(4) If the member is in NHS employment (whether with the same or another employing authority) when he reaches age 60, the pension will not become payable until the member leaves all NHS employment or reaches age 70, whichever is the earlier.

(5) Subject to paragraph (6), where on or after the coming into force of these Regulations a member becomes entitled to a pension under paragraph (3)(a) or (b) of this regulation, the Secretary of State may discharge his liability for that pension by the payment of a lump sum.

(6) A lump sum payment under paragraph (5) may be made only if the Secretary of State is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member and the member was in pensionable employment on or after the coming into force of these Regulations.

(7) For the purpose of paragraph (6), the Secretary of State may require whatever medical evidence that he considers necessary.

(8) The amount of the lump sum payable under paragraph (5) will be equal to (a) 5 times the difference between yearly rate of the member's pension calculated in accordance with this

regulation and the annual rate of the member's guaranteed minimum pension or, if lower, (b) twice the member's final year's pensionable pay less the member's lump sum on retirement payable under this regulation (which shall not be subject to any reduction under regulation E8); and the amount of the lump sum shall be payable in addition to any retirement lump sum under regulation E7 (which shall not be subject to any reduction under regulation E8).

Lump sum on retirement

E7.—(1) Each member shall, on becoming entitled to a pension under regulations E1 to E5, also become entitled to a retirement lump sum.

(2) Subject to regulation E8, the lump sum will be equal to 3 times the yearly rate of the pension.

Deductions from lump sum

E8.—(1) In the case of a man whose pensionable service started before 25th March 1972 and who is or has been married, the lump sum will be reduced in accordance with whichever of paragraphs (2) to (4) is applicable except to the extent that the reduction has been off-set by payments made under regulation Q2 (right to buy an unreduced retirement lump sum).

(2) If the man is married, the reduction will be equal to 2 times the yearly rate of the part of the man's pension that is based on pensionable service before 25th March 1972.

(3) If the man's wife died, or the man was divorced from his wife, after 24th March 1972, the reduction will be equal to 2 times the yearly rate of the part of the man's pension that is based on pensionable service before 25th March 1972.

(4) If the man's wife died, or the man was divorced from his wife, before 25th March 1972, the reduction will be equal to 2 times the yearly rate of the part of the man's pension that is based on pensionable service up to and including the date of the death or divorce.

(5) If a female member has nominated her husband under regulation G8 to receive a dependent widower's pension on her death the lump sum will be reduced in accordance with regulation G8(5).

(6) If a female member has elected before 1st July 1989 to buy an increased widower's pension under regulation G9, the lump sum will be reduced in accordance with regulation G9(2).

(7) In any case where regulation E5 applies (early retirement pension (with actuarial reduction))—

(a) the pension referred to in paragraph (2) of regulation E7 means the pension before any reduction is made under regulation E5(2); and

(b) the lump sum as calculated under paragraph (2) of regulation E7 will be reduced by such amount as the Secretary of State, after consulting the Government Actuary, shall determine.

Early leavers' entitlement to refund of contributions

E9.—(1) A member who leaves pensionable employment without becoming entitled to an immediate pension or a preserved pension shall subject to regulation R4(9) be entitled to receive a refund of his contributions, less tax at 20 per cent, or such other rate as applies from time to time. A member who wishes to take a refund of contributions shall make application in writing to the Secretary of State.

(2) If the member's employment was contracted-out by reference to the scheme, the member (and the member's spouse, if any) will remain entitled to a guaranteed minimum pension under the scheme, unless the Secretary of State discharges his liability to provide a guaranteed minimum

pension by paying a contributions equivalent premium under section 55(2) of the Pension Schemes Act 1993⁽¹⁾.

(3) If a contributions equivalent premium is paid, the member's refund of contributions will be reduced by the amount recoverable under section 61 of the Pension Schemes Act 1993 (deduction of contributions equivalent premium from refund of contributions).

(4) If a contributions equivalent premium is not paid, the member's refund of contributions will be reduced by the amount that the Secretary of State estimates would have been recoverable under section 61 of the Pension Schemes Act 1993 if the premium had been paid.

(5) Where a member does not apply for a refund of contributions under paragraph (1) the Secretary of State may nonetheless make a refund of those contributions if the member does not return to pensionable employment within 12 months.

(6) A member shall not be entitled to a refund of contributions for any period of pensionable service in respect of which the Secretary of State has received a transfer payment in respect of his rights under a personal pension scheme.

(7) Where a refund of contributions is made, the Secretary of State shall be discharged from any obligation to provide benefits under the scheme except to any extent provided for under paragraph (2).

Payment of interest with refund of contributions

E10.—(1) Compound interest will be added to the refund of contributions under regulation E9 except where the employment was terminated by reason of misconduct or inefficiency or at the member's own request.

(2) Subject to paragraph (2), where compound interest is added to a refund of contributions, it will be calculated at the rate of 2 and one-half per cent a year, for the period starting on the 1st April after the contributions were paid and ending on the day the member leaves pensionable employment.

(3) In the case of any contributions paid under another enactment or scheme and included in a transfer payment to the scheme, interest for the period before the transfer payment was accepted will be calculated as described in the enactment or scheme from which the transfer payment was received.

(1) 1993 c. 48.