
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 117

**The National Health Service Superannuation
Scheme (Scotland) Regulations 2011**

PART J

ALLOCATION TO A SPOUSE OR DEPENDANT

Allocation of pension by member for benefit of dependant

J1.—(1) Subject to the following provisions of this Part, a member may elect to allocate part of the member's pension under this Section of the scheme so as to provide, following the member's death, a pension for a spouse, a civil partner or dependant.

(2) Any pension provided for a spouse or a civil partner under this regulation will be payable in addition to any other widow's, widower's or surviving civil partner's pension under these Regulations.

(3) Any pension provided under this regulation will be calculated in accordance with tables prepared by the scheme actuary.

(4) A member wishing to allocate part of the member's pension under this regulation may elect to do so—

(a) on making a claim for payment of the member's benefits under regulation T1 (claims for benefits), or at any time after making such a claim but before the date on which a pension payable to the member under this Section of the scheme is put into payment; or

(b) if in pensionable employment—

(i) in the case of a member who is not a special class officer, at any time after completing 45 years pensionable service; or

(ii) in the case of a member who is a special class officer, at any time after reaching age 55 and completing 40 years pensionable service; or

(c) at any time after reaching age 65 (60 for special class officers).

(5) A member wishing to allocate part of the member's pension as described in this regulation must do so by giving notice in writing to the employing authority on the form provided, giving such information as may be required.

(6) The Scottish Ministers must not accept an election unless satisfied that the member is in good health.

Limits on allocation

J2.—(1) A member may not allocate more than one-third of the member's pension to provide a pension on the member's death for a surviving spouse, a civil partner or a dependant and must keep a pension at least equal to the member's guaranteed minimum pension

(2) A member may not allocate so much pension as to provide a bigger spouse's pension, civil partner's pension or dependant's pension under regulation J1 than the pension the member has retained.

(3) The part of a member's pension that is allocated must be an exact number of pounds and must be sufficient to provide a pension for the spouse, civil partner or dependent of at least £260 a year or, if greater, of the minimum amount that cannot be treated as trivial for the purposes of regulation T8 (commutation of trivial pensions).

Date on which allocation has effect

J3.—(1) An allocation becomes effective once the election to allocate is accepted by the Scottish Ministers.

(2) The allocation will not take effect if—

- (a) the member dies on or before the day on which the Scottish Ministers accept the member's election;
- (b) the dependent, spouse or civil partner dies before the member is told that the Scottish Ministers accept the election; or
- (c) the member withdraws the member's application before it is accepted by the Scottish Ministers.

(3) An allocation may not be withdrawn or cancelled, once the Scottish Ministers have accepted the member's election to allocate.

Death of member after allocation

J4.—(1) If a member elects to allocate part of the member's pension in the circumstances described in regulation J1(4)(b) or (c) and then dies before becoming entitled to receive a pension the member will be treated, for the purposes of regulation J2, as entitled to the pension the member would have received if the member had retired immediately before the member's death.

(2) If a member allocates part of the member's pension as described in this regulation and then dies after becoming entitled to receive a pension, the amount of pension already paid to the member under this Section of the scheme will be treated, for the purpose of calculating the lump sum payable under regulation F2 (member dies after becoming entitled to receive a pension), as including the amount of the additional pension that would have been paid to the member if the member had not allocated part of the member's pension.