
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 117

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

PART L

EARLY LEAVERS RETURNING TO PENSIONABLE EMPLOYMENT

Treatment of pensionable service of early leavers returning to pensionable employment

L1.—(1) This regulation applies to any member who leaves pensionable employment without becoming entitled to an immediate pension under regulation E1 to E11 (pensions for members) and later returns to pensionable employment before becoming entitled to receive a pension under this Section of the scheme.

(2) Subject to paragraph (5), if the member leaves pensionable employment with a preserved pension and then returns to pensionable employment within 12 months after leaving, the member will cease to be entitled to the preserved pension under regulation E12 and the member's pensionable service before and after the break will be treated as continuous.

(3) Where the member leaves NHS employment with a preserved pension and then returns to pensionable employment 12 months or more after leaving—

- (a) the member's pensionable service before and after the break will be treated separately unless, when the member becomes entitled to receive a pension or the member dies (whichever occurs first), it would be more favourable to the member to treat the member's pensionable service before and after the break and all other such breaks (if any) as continuous; in which case it will be treated as continuous; and
- (b) where the member becomes entitled to receive a pension under regulation E2 (early retirement pension (ill health)) or E3 (ill health pension on early retirement), the pensionable service upon which that pension is based will be increased as described in paragraphs (5) to (7) of regulation E2 or (4) to (6) of regulation E3, whichever is applicable, if the member's pensionable service before and after the break is treated as continuous; but where the member's pensionable service before and after the break is treated separately the increase as described in paragraphs (5) to (7) of regulation E2 or (4) to (6) of regulation E3, whichever is applicable, will be the proportion that the service is to the total pensionable service in this Section of the scheme calculated as—

$$\textit{proportioned increase} = \frac{\textit{service after the break}}{\textit{total pensionable service}} \times \textit{total increase}$$

and the said proportioned increase will be added to the pensionable service after the break.

(4) Subject to regulation L2, if the member leaves pensionable employment without becoming entitled to a preserved pension and then returns to pensionable employment within 12 months after leaving, the member's pensionable service before and after the break will be treated as continuous.

(5) Where paragraph (4) applies and the member has received a refund of contributions in respect of pensionable service before the break, the member's pensionable service before and after the break will be treated as continuous provided that the member returns within 12 months, and, within 6 months after rejoining this Section of the scheme, the member pays to the Scottish Ministers an amount equal to the refund of contributions including any interest paid.

Calculation of benefits

L2.—(1) If the member's pensionable service before and after the break is treated as continuous, the member's pensionable employment before and after the break will be treated as continuous for the purpose of calculating the member's final year's pensionable pay under regulation C1 for any specified period of pensionable employment.

(2) If a member's pensionable service before and after a break in pensionable employment is treated separately, the member's benefits in respect of each period of pensionable employment shall be calculated—

- (a) separately; and
- (b) by reference to—
 - (i) the member's pensionable service before and after a break in pensionable employment as the case may be; and
 - (ii) the member's final pensionable pay in respect of that particular period, as if that period had been the member's only period of pensionable employment.

Preserved pension to count as qualifying service

L3. If a member leaves pensionable employment with a preserved pension and, after returning, again leaves pensionable employment without becoming entitled to an immediate pension under regulation E1 to E11 (pensions for members), the member will be entitled to a preserved pension under regulation E12 in respect of the period after the break whether or not the member has 2 years' qualifying service in respect of that period.

Continuation of additional contributions

L4. A member whose pensionable service before and after a break is treated as continuous and who, before the break, was paying for additional benefits by regular additional contributions under regulation Q5 (paying for additional service or unreduced retirement lump sum) must continue to pay for those additional benefits after the break.