
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 174

**The National Health Service Superannuation
Scheme (2008 Section) (Scotland) Regulations 2013**

PART 3

BENEFITS FOR PRACTITIONERS, ETC.

CHAPTER 3.L

WAITING PERIOD JOINERS

Application of Chapter 3.L

3.L.1.—(1) This Chapter makes provision in relation to pensioner members of the 1995 Section of the scheme who are eligible to be members of this Section of the scheme in accordance with regulation 3.B.2(1)(b)(ii) (eligibility: transitional).

(2) A member of this Section of the scheme to whom this Chapter applies is referred to as a “Waiting Period Joiner”.

Nominations and notices accepted by the Scottish Ministers under the 2011 Regulations to apply under Chapter 3.E

3.L.2.—(1) This regulation applies if—

- (a) on the day a Waiting Period Joiner becomes an active member of this Section of the scheme
 - (i) the Scottish Ministers have accepted any of the nominations or notices specified in paragraph (2) in respect of the benefits to be paid on the death of that Waiting Period Joiner; and
 - (ii) that Waiting Period Joiner has not revoked that nomination or notice; or
 - (b) at any time after a Waiting Period Joiner becomes an active member of this Section of the scheme, that Waiting Period Joiner gives a notice, nomination or declaration for the purposes of a regulation listed in the table at paragraph (4).
- (2) The nominations and notices referred to in paragraph (1)(a) are—
- (a) a nomination made in accordance with regulation F5 (payment of lump sum) of the 2011 Regulations (payment of lump sum) in favour of one or more persons in respect of any lump sum that becomes payable under regulations F1 to F4 (lump sum on death) of the 2011 Regulations;
 - (b) a notice provided for the purposes of regulation F5(3)(a) of the 2011 Regulations that the person’s surviving partner (within the meaning of that regulation) is not to receive the payment of any lump sum that becomes payable under regulations F1 to F4 of the 2011 Regulations;

- (c) a notice provided for the purpose of regulation G14 of the 2011 Regulations (surviving nominated partner's pension) nominating a partner to receive a surviving nominated partner pension.
- (3) For the purpose of this Section of the scheme a nomination or notice referred to in paragraph (1)(a) must be treated—
- (a) in the case of the nomination referred to in paragraph (2)(a), as if that nomination has been accepted by the Scottish Ministers as a notice for the purposes of regulation 3.E.22 (payment of lump sums or pensions on death);
 - (b) in the case of a notice referred to in paragraph (2)(b), as if that notice had been accepted by the Scottish Ministers as a notice for the purposes of regulation 3.E.22 specifying that the Waiting Period Joiner's personal representatives are to receive any lump sum or pension on the death of that Joiner; and
 - (c) in the case of a notice referred to in paragraph (2)(c), as if that notice had been accepted by the Scottish Ministers as a declaration for the purposes of regulation 3.E.2 (meaning of "surviving nominated partner").
- (4) A notice, nomination or declaration referred to in paragraph (1)(b) that is given by a Waiting Period Joiner for the purposes of a regulation listed in column 1 of the following table must be treated as a notice, nomination or declaration given for the purposes of the corresponding regulation in column 2.

Table

<i>Column 1</i> <i>The 2011 Regulations</i>	<i>Column 2</i> <i>These Regulations</i>
F5 (payment of lump sum)	3.E.22 (payment of lump sum or pensions on death)
G14 (surviving nominated partner's pension)	3.E.2 (meaning of "surviving nominated partner")

Waiting Period Joiners who are in receipt of a lower tier ill health pension under regulation E3 of the 2011 Regulations

- 3.L.3.**—(1) This regulation applies to a Waiting Period Joiner who—
- (a) is entitled to a lower tier ill health pension under regulation E3 (early retirement on ill health grounds (post 1st April 2008)) of the 2011 Regulations in respect of service in the 1995 Section ("the earlier 1995 Section service"); and
 - (b) becomes entitled to a lower tier ill health pension or, as the case may be, an upper tier ill health pension under regulation 3.D.7 (active members and non-contributing members) in respect of service in this Section of the scheme ("the later 2008 Section service").
- (2) For the purposes of determining whether a Waiting Period Joiner can count 45 years of pensionable service for any purpose, the earlier 1995 Section service and the later 2008 Section service are aggregated.
- (3) A Waiting Period Joiner is entitled to the benefits set out in paragraph (4) if, on the termination of the later 2008 Section service, that Joiner becomes entitled to a lower tier ill health pension or an upper tier ill health pension under regulation 3.D.7 in respect of the later 2008 Section service.
- (4) Subject to paragraph (5), those benefits are—
- (a) a lower tier ill health pension under regulation E3 of the 2011 Regulations in respect of the member's earlier 1995 Section service; and

- (b) a lower tier ill health pension or, as the case may be, an upper tier ill health pension in respect of the member's later 2008 Section service.
- (5) A Waiting Period Joiner is entitled to the benefits set out in paragraph (6) where that Joiner—
 - (a) ceases to be entitled to a lower tier ill health pension in respect of the earlier 1995 Section service;
 - (b) becomes entitled to an upper tier ill health pension in respect of that earlier 1995 Section service in accordance with regulation E4 (re-assessment of ill health condition) of the 2011 Regulations; and
 - (c) becomes entitled to a lower tier ill health pension or, as the case may be, an upper tier ill health pension in respect of the later 2008 Section service on the termination of that later service.
- (6) Those benefits are—
 - (a) an upper tier ill health pension paid in accordance with regulation E4 of the 2011 Regulations in respect of the earlier 1995 Section service; and
 - (b) a lower tier ill health pension in respect of the later 2008 Section service.

Lump sum payable on the death of a Waiting Period Joiner

3.L.4.—(1) This regulation applies to a Waiting Period Joiner who, on the date of that Joiner's death, is an active or a non-contributing member in respect of service in this Section of the scheme ("the later 2008 Section service").

(2) The lump sum payable on the death of a Waiting Period Joiner referred to in paragraph (1) must be calculated in accordance with whichever of paragraphs (3) to (6) applies to the Joiner, and must be paid in place of the lump sum that, apart from this regulation, would otherwise be payable in respect of the Joiner's later 2008 Section service under regulation 3.E.17 (amount of lump sum: single capacity members and recent leavers).

(3) Where, at the date of the Waiting Period Joiner's death, the Joiner was an active member who had not reached age 65 and who had not exercised the option under regulation 3.D.5 (partial retirement: members aged at least 55), the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 3.D.7(5) (early retirement on ill health) to which the deceased Joiner would have been entitled at that date, multiplied by 5.

(4) Where, at the date of the Waiting Period Joiner's death, the Joiner was an active member who had reached age 65 and who had not exercised the option under regulation 3.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension payable under regulation 3.D.1 (normal retirement pensions) to which the deceased Joiner would have been entitled at that date, multiplied by 5.

(5) Where, at the date of the Waiting Period Joiner's death, the Joiner was a non-contributing member who had not exercised the option under regulation 3.D.5, the lump sum referred to in paragraph (2) is an amount equal to the annual rate of pension to which the Joiner would have been entitled under regulation 3.D.1 on the last day of the Joiner's pensionable service, multiplied by 5.

(6) Where, at the date of the Waiting Period Joiner's death, the Joiner was an active member or a non-contributing member who had exercised the option under regulation 3.D.5, the lump sum referred to in paragraph (2) must be determined by the Scottish Ministers after taking advice from the scheme actuary.

Children's pensions payable on the death of a Waiting Period Joiner

3.L.5.—(1) This regulation applies in respect of a Waiting Period Joiner's service in this Section of the scheme where, at the date of the Joiner's death, the Joiner was an active non-contributing

pensioner or a deferred member who was entitled to a pension under the 2011 Regulations in respect of service in the 1995 Section (“the earlier 1995 Section service”).

(2) In the case of a deceased Waiting Period Joiner who at the date of the Joiner’s death was an active or non-contributing member, “the basic death pension” for the purposes of regulation 3.E.10(3) (amount of surviving child’s pension) has the meaning given in paragraph (3).

(3) The “basic death pension” means 75% of the deceased member’s pension under regulation 3.D.1 (normal retirement pensions) and—

(a) in the case of a deceased Waiting Period Joiner who was at the date of the Joiner’s death an active member that pension includes the greater of—

(i) any increase due to such enhancement period that would have applied for the purposes of regulation 3.D.7(5) (upper tier ill health pension) if that Joiner had become entitled to an upper tier ill health pension at that date; and

(ii) that Joiner’s later 2008 Section service as an active member plus the difference between—

(aa) the aggregate of that Joiner’s earlier 1995 Section service and the later 2008 Section service as an active member; and

(bb) 10 years pensionable service,

where the amount of service in sub-head (aa) is less than that specified in sub-head (bb); and

(b) in the case of a deceased Waiting Period Joiner who at the date of that Joiner’s death was a non-contributing member, the pensionable service that Joiner was entitled to count under this Section of the scheme on the date of that Joiner’s death.

(4) In the case of a deceased Waiting Period Joiner who at the date of the Joiner’s death was a pensioner member, “the basic death pension” for the purposes of regulation 3.E.11(3) (amount of surviving child’s pension: pensioner members) has the meaning given in paragraph (5).

(5) The “basic death pension” means the greater of—

(a) 75% of the deceased Waiting Period Joiner’s annual pension (disregarding any additional pension); and

(b) 75% of the annual pension (disregarding any additional pension) to which that Joiner would have been entitled in respect of the aggregate of that Joiner’s later 2008 Section service plus the difference between—

(i) the aggregate of that Joiner’s earlier 1995 Section service and the later 2008 Section service; and

(ii) 10 years pensionable service,

where the amount of service in head (i) is less than that specified in head (ii).

(6) In the case of a deceased Waiting Period Joiner who at the date of the Joiner’s death was a deferred member, “the basic death pension” for the purposes of regulation 3.E.12(3) (amount of surviving child’s pension: pensioner members) has the meaning given in paragraph (7).

(7) The “basic death pension” means—

(a) if the deceased Waiting Period Joiner died within 12 months after ceasing to be an active member or a non-contributing member, the amount that would be the basic death pension for the purposes of regulation 3.E.10 had the Joiner died on the day that the Joiner ceased to be such a member (disregarding any additional pension); and

(b) if the deceased Waiting Period Joiner died more than 12 months after ceasing to be an active member or a non-contributing member, the greater of—

- (i) 75% of the pension to which that Joiner would have been entitled if that Joiner had become entitled to a pension under regulation 3.D.1 (normal retirement pensions) on the date of death (disregarding any additional pension); and
- (ii) 75% of the annual pension to which that Joiner would have been entitled in respect of the aggregate of that Joiner's later 2008 Section service that has been deferred plus the difference between—
 - (aa) the aggregate of that Joiner's earlier 1995 Section service and the later 2008 Section service that has been deferred; and
 - (bb) 10 years pensionable service,where the amount of service in sub-head (aa) is less than that specified in sub-head (bb).