
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 174

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

PART 2

BENEFITS FOR OFFICERS

CHAPTER 2.B

MEMBERSHIP

Eligibility

Restrictions on eligibility: general

2.B.3.—(1) A person who is entitled to the immediate payment of a pension under this Section of the scheme under a regulation that requires the person not to be in NHS employment may only be an active member in accordance with—

- (a) regulation 2.D.5 (partial retirement: members aged at least 55);
- (b) regulation 2.D.13 (exceptions to requirement that NHS employment must have ceased); or
- (c) Chapter 2.G (re-employment and rejoining the scheme).

(2) A person is not eligible to be an active member of this Section of the scheme if the person—

- (a) became a pensioner member of the 1995 Section or a corresponding 1995 scheme before 1st April 2008 (except if regulation 2.B.2(1)(b)(i) (eligibility: transitional) applies to that person);
- (b) became a pensioner member of the 1995 Section or a corresponding 1995 scheme on or after that date (except if regulation 2.B.2(1)(b)(i) or (ii) (eligibility: transitional) applies to that person); or
- (c) is a deferred member of the 1995 Section or a corresponding 1995 scheme, but is not a deferred member—
 - (i) to whom regulation 2.B.1(5)(e), (f), (g) or (h) (eligibility: general) applies; and
 - (ii) in respect of whom permission of the Scottish Ministers to rejoin the 1995 Section has not been granted pursuant to regulation B2(3) (age limits and restrictions of membership) of the 2011 Regulations.

(3) A person is not eligible to be an active member of this Section of the scheme in respect of service in an employment if the person is an active member of a superannuation scheme established under section 1 (superannuation schemes as respects civil servants, etc.) or section 9 (superannuation of teachers) of the Superannuation Act 1972(1) in respect of service in that employment.

(1) 1972 c.11. Section 1 was amended by section 8 of the Pensions (Miscellaneous Provisions) Act 1990 (c.7), by paragraph 6 of Schedule 8 to the Pension Schemes Act 1993 (c.48), paragraph 14 of Schedule 8 to the Scotland Act 1998 (c.46), S.I.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(4) A person who holds an honorary appointment and does not at the same time hold any other employment which entitles the person to be a member of this Section of the scheme is not eligible to be an active member of this Section of the scheme.

(5) A person is not eligible to be an active member of this Section of the scheme if the person—

- (a) becomes entitled to an upper tier ill health pension under regulation 2.D.8 (early retirement on ill health: active members and non-contributing members); and
- (b) opts to exchange that pension for a lump sum in accordance with regulation 2.D.15 (option for members in serious ill health to exchange whole pension for lump sum).

(6) Subject to paragraph (7), a person is not eligible to be an active member of this Section of the scheme in any future employment if the person—

- (a) ceases to be entitled to a lower tier ill health pension under regulation 2.D.8; and
- (b) becomes entitled to an upper tier ill health pension under that regulation on the date the Scottish Ministers make a determination under regulation 2.D.9(3) (re-assessment of entitlement to an ill health pension).

(7) A person to whom paragraph (6) applies is eligible to be an active member of this Section of the scheme in any further employment after the first anniversary of that person's first day of such employment following the date of the Scottish Ministers' determination under regulation 2.D.9.