
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 174

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

PART 2

BENEFITS FOR OFFICERS

CHAPTER 2.K

2008 SECTION OPTANTS

Transfer of service from the 1995 Section

Amount of pension and lump sum to be paid to a 2008 Section Optant

- 2.K.12.**—(1) This regulation applies to a 2008 Section Optant who—
- (a) is entitled to an annual pension under Chapter 2.D (members' retirement benefits); or
 - (b) is entitled to the payment of a transfer value under Chapter 2.F (transfers) in respect of the pension that has accrued to, or in respect of, that Optant under this Section of the scheme.
- (2) In the case of a 2008 Section Optant referred to in paragraph (1)(a), that Optant is entitled to—
- (a) the payment of a lump sum determined in accordance with whichever of the following paragraphs of this regulation that apply to that Optant; and
 - (b) the annual amount of pension referred to in paragraph (1)(a) to which that Optant is entitled, reduced by an amount equal to the amount of the lump sum referred to in sub-paragraph (a) divided by 12.
- (3) In the case of a 2008 Section Optant referred to in paragraph (1)(b)—
- (a) the transfer value must be calculated by reference to a lump sum determined under paragraph (5); and
 - (b) the pension by reference to which, apart from this regulation, the transfer value in respect of that Optant would otherwise be calculated must be reduced by an amount equal to the amount of the lump sum referred to in sub-paragraph (a) divided by 12.
- (4) Subject to paragraphs (13) and (15), except in a case to which paragraph (6), (8), (10) or (12) applies, the amount of the lump sum must be determined as described in paragraph (5).
- (5) The amount of the lump sum must be determined by—
- (a) applying the formula—

$$\frac{3 \times (\text{Relevant Services} \times \text{Reckonable Pay})}{80}$$

80

; and

(b) rounding down the amount found under sub-paragraph (a) to the nearest amount of whole pounds that is divisible by 12.

(6) In the case of an Optant who—

(a) becomes entitled to an annual amount of pension payable under regulation 2.D.4 (early payment of pension with actuarial reduction); and

(b) has not attained age 60 on the day of becoming entitled to that pension,

the amount of the lump sum must be determined as described in paragraph (7).

(7) The amount of the lump sum that is to be paid to an Optant referred to in paragraph (6) must be calculated by—

(a) applying the formula—

$$\frac{3 \times (\textit{Relevant Services} \times \textit{Reckonable Pay} \times \textit{Reduction Factor})}{80}$$

; and

(b) rounding down the amount found under sub-paragraph (a) to the nearest amount of whole pounds that is divisible by 12.

(8) In the case of an Optant who—

(a) becomes entitled to an annual amount of pension payable under regulation 2.D.5 (partial retirement: members aged at least 55) for the first time; and

(b) has not attained age 60 on the day of becoming entitled to that pension,

the amount of the lump sum must be determined as described in paragraph (9).

(9) The amount of the lump sum that is to be paid to an Optant referred to in paragraph (8) must be calculated by—

(a) applying the formula—

$$\frac{3 \times (\textit{Specified Service} \times \textit{Reckonable pay} \times \textit{Reduction Factor})}{80}$$

; and

(b) rounding down the amount found under sub-paragraph (a) to the nearest amount of whole pounds that is divisible by 12.

(10) In the case of an Optant who—

(a) becomes entitled to an annual amount of pension payable under regulation 2.D.5 (partial retirement: members aged at least 55) for the first time; and

(b) has attained age 60 on the day of becoming entitled to that pension,

the amount of the lump sum must be determined as described in paragraph (11).

(11) The amount of the lump sum that is to be paid to an Optant referred to in paragraph (10) must be calculated by—

(a) applying the formula—

$$\frac{3 \times (\textit{Specified Service} \times \textit{Reckonable Pay})}{80}$$

; and

(b) rounding down the amount found under sub-paragraph (a) to the nearest amount of whole pounds that is divisible by 12.

(12) In the case of an Optant—

- (a) who is a pensioner member as respects a pension payable under regulation 2.D.5(9)(a); and
- (b) who—
 - (i) subsequently exercises an option under that regulation for the second or final time; or
 - (ii) becomes entitled to any other pension under Chapter 2.D in respect of pensionable service not taken into account for the purposes of calculating the pension payable under sub-paragraph (a),

the amount of the lump sum payable under this regulation must be determined by the Scottish Ministers after taking advice from the scheme actuary.

(13) If, on becoming a member of this Section of the scheme, a 2008 Section Optant is a pension debit member the amount of the lump sum determined under this regulation must be reduced by the amount calculated under paragraph (14) (“the pension debit reduction”).

(14) The amount of the pension debit reduction referred to in paragraph (13) is to be calculated by—

- (a) applying the formula—

$$3 \times (1995 \text{ Section Pension Debit} \times \text{Increase Factor})$$

; and

- (b) rounding up the amount found in sub-paragraph (a) to the nearest amount of whole pounds that is divisible by 12.

(15) If any part of an Optant’s benefit under this Section of the scheme falls to be calculated by reference to capped Optant service under regulation 2.K.10 the determinations in this regulation must apply separately in respect of—

- (a) the pension to which the Optant is entitled in respect of the service that falls to be calculated by reference to capped Optant service; and
- (b) the pension to which the Optant is entitled in respect of the service that does not fall to be calculated by reference to capped Optant service.

(16) In this regulation—

“1995 Section Pension Debit” means the amount by which the Optant’s annual pension under the 2011 Regulations was to be reduced in accordance with section 31 (reduction of benefit) of the 1999 Act;

“annual amount” in relation to a pension, means the amount of the annual pension to which the member would be entitled under this Section of the scheme apart from this regulation, together with any increases payable under the Pensions (Increase) Act 1971(1), calculated as at the time payment would first be due;

“Increase Factor” means the factor that would have applied to the 1995 Section Pension Debit for the purposes of section 29 (creation of pension debits and credits) of the 1999 Act if the Optant had become entitled to a pension under the 2011 Regulations—

- (a) on the date that the Optant becomes entitled to a pension referred to in paragraph (1)(a); or
- (b) on the day after the Optant’s last day of pensionable service if the Optant becomes entitled to the payment of a transfer value referred to in paragraph (1)(b);

“Reckonable Pay” means the Optant’s reckonable pay calculated under Chapter 2.A;

“Reduction Factor” means the reduction factor that the Scottish Ministers, after taking advice from the scheme actuary, determines would have applied to that Optant’s lump sum retiring allowance under regulation E14(7)(b) (deductions from lump sum) of the 2011 Regulations if

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that Optant had become entitled to a pension calculated under regulation E11 (early retirement pension (with actuarial reduction)) of those Regulations on the day the Optant became entitled to a pension under regulation 2.D.4 (early payment of pension with actuarial reduction) or, as the case may be, regulation 2.D.5 (partial retirement: members aged at least 55);

“Relevant Service” means a period (expressed in days), equal to the aggregate of—

- (a) the period of pensionable service that the Optant is entitled to count under regulation 2.K.3 (service and pensionable earning credited from the 1995 Section); and
- (b) the period of pensionable service (if any) that the Optant is entitled to count under regulations 2.K.5 (treatment of Additional Service) and 2.K.18 (transitional provision: treatment of additional service in respect of Optants retiring on the grounds of ill Health under regulation 2.D.8);

“specified percentage” means the percentage of the member’s pension in respect of which the member claims immediate payment under regulation 2.D.5(4)(a); and

“Specified Service” means the amount of the Optant’s Relevant Service (expressed in days) multiplied by the specified percentage.

(17) In the case of an 2008 Section Optant whose benefits are subject to the modification provided in Part 4, this regulation is subject to regulation 3.K.10(16).