
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.A

INTRODUCTION

Pensionable service

Pensionable service: breaks in service

3.A.4.—(1) Paragraph (2) applies if a member is absent from work because of—

- (a) illness or injury;
- (b) maternity leave;
- (c) adoption leave;
- (d) paternity leave; or
- (e) parental leave.

(2) The period of absence counts as pensionable service if the member contributes to this Section of the scheme under regulation 3.C.1 (contributions by members) in respect of the period of absence.

(3) If a member is on leave of absence that does not fall within paragraph (1)(a) to (e), and contributes to this Section of the scheme under regulation 3.C.1 by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 6 months commencing with the first day of the member's leave of absence, 6 months; and
- (b) where the member contributes for a continuous period of less than 6 months commencing with the first day of the member's leave of absence, the period in respect of which the member pays those contributions.

(4) If, having paid contributions for the period mentioned in paragraph (3)(a) a member remains on a leave of absence that does not fall within paragraph (1)(a) to (e) and contributes to this Section of the scheme both member contributions under regulation 3.C.1 and employer contributions under regulation 3.C.3 (contributions by employing authorities: general) by contributions made at the same intervals as those made by the member before the absence, the maximum period of such leave that can be counted as pensionable service under this paragraph is—

- (a) where the member contributes for a continuous period of 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), 18 months; and

- (b) where the member contributes for a continuous period of less than 18 months commencing immediately after the expiry of the period mentioned in paragraph (3)(a), the period in respect of which the member pays those contributions.
- (5) This paragraph applies if a person—
- (a) ceased to be an active member because of—
 - (i) ceasing to be employed in an employment in which the person is eligible to be such a member; or
 - (ii) exercising the option under regulation 3.B.6 (opting out of this Section of the scheme); and
 - (b) less than 12 months after the date on which the person ceased to be an active member becomes such a member again.
- (6) If paragraph (5) applies, the person’s pensionable service before the person ceased to be an active member and after the person became such a member again is to be treated as a single continuous period of pensionable service, unless paragraph (7) applies⁽¹⁾.
- (7) This paragraph applies if—
- (a) the person does not become a deferred member in respect of the pensionable service before the break in which the person was an active member;
 - (b) the person has received a repayment of contributions under regulation 3.C.16 (repayment of contributions) in respect of that service (but see paragraph (9)); or
 - (c) the person’s rights under this Section of the scheme in respect of that service have been extinguished under regulation 3.F.7 (effect of transfers-out) because a transfer value payment has been made in respect of them.
- (8) In the case of a member who leaves pensionable service whilst absent from work because of—
- (a) illness or injury;
 - (b) maternity leave;
 - (c) adoption leave;
 - (d) paternity leave; or
 - (e) parental leave,
- this regulation applies as if the reference to 12 months in paragraph (5)(b) were a reference to three years.
- (9) Paragraph (7)(b) does not apply if the person repays to the Scottish Ministers any contributions repaid to the person as mentioned in that paragraph, together with any interest paid to the person on those contributions, before the expiry of the period of 6 months beginning with the date on which the person becomes an active member again.

(1) Where paragraph (6) applies in respect of the service in which the person was an active member and becomes an active member again, see Chapter 3.G (re-employment and rejoining the scheme).