
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 94

**The National Health Service Pension
Scheme (Scotland) Regulations 2015**

PART 3

Scheme membership

CHAPTER 3

Pensionable service

Pensionable service

- 20.**—(1) Pensionable service is the aggregate of the following periods—
- (a) a period of service in which a member (M) contributes to this scheme under regulation 30 or 31;
 - (b) a period of absence from service which counts as pensionable service under regulation 21; and
 - (c) a period of service credited to M as pensionable service under Part 7 (transfers).
- (2) M's pensionable service does not include—
- (a) a period of service in respect of which an employing authority or the Scottish Ministers have paid contributions to another occupational pension scheme in respect of M;
 - (b) where M is a pensioner member or a deferred member, a period taken into account—
 - (i) in determining M's entitlement to the pension in payment or, as the case may be, the deferred pension; or
 - (ii) in calculating the amount of the pension,
 - (c) a period of service in which the Scottish Ministers' liability to provide benefits is discharged—
 - (i) by the payment of a contributions equivalent premium under section 55(2) of the 1993 Act;
 - (ii) under regulation 41 (effect of refund); or
 - (iii) by the payment of a transfer value payment on transfer out under Part 7 (transfers).
- (3) Paragraph (4) applies if—
- (a) the employment in which M is an active member ceases; and
 - (b) a payment is made in respect of untaken leave.
- (4) If this paragraph applies—
- (a) M's pensionable service is treated as continuing for a period equal to the period of leave in respect of which payment is made; and
 - (b) the payment is treated as M's pensionable pay for the period.

(5) If M—

- (a) is a pensioner member; and
- (b) is entitled to a pension under regulation 84 (partial retirement),

paragraph (2)(b) applies only to so much of M's pensionable service as is mentioned in regulation 84(3)(a) (the specified percentage of the pensionable service as respects which M is an active member on the election day).

(6) For the purposes of calculating the length of a period of pensionable service—

- (a) a year is a period of 365 days;
- (b) 29th February in any year is ignored;
- (c) part of a day is treated as a whole day.

Absence from work

21.—(1) Paragraph (2) applies if a member (M) is absent from work because of—

- (a) illness or injury;
- (b) maternity leave;
- (c) adoption leave;
- (d) paternity leave; or
- (e) parental leave [^{F1}shared parental leave or parental bereavement leave].

(2) The period of absence counts as pensionable service if M contributes to this scheme under regulation 30 or 31 in respect of the period of absence.

(3) Paragraph (4) applies if M—

- (a) is on leave of absence;
- (b) is not within paragraph (1); and
- (c) contributes to this scheme at the same intervals as those made by M before the absence.

(4) The maximum period of leave that can be counted as pensionable service is—

- (a) if M contributes for a continuous period of 6 months starting with the first day of M's leave of absence, 6 months;
- (b) if M contributes for a continuous period of less than 6 months starting with that day, the period in respect of which M pays the contributions.

(5) Paragraph (6) applies if M—

- (a) has paid contributions for the period mentioned in paragraph (4)(a);
- (b) remains on leave of absence that is not within paragraph (1); and
- (c) at the same intervals as contributions made by M before the absence, contributes both member contributions under regulation 30 or 31 and employer contributions under regulation 32.

(6) The maximum period of leave that can be counted as pensionable service is—

- (a) if M contributes for a continuous period of 18 months starting immediately after the end of the period mentioned in paragraph (4)(a), 18 months; and
- (b) if M contributes for a continuous period of less than 18 months starting immediately after the end of that period, the period in respect of which M pays the contributions.

Textual Amendments

- F1** Words in reg. 21(1)(e) substituted (6.4.2020) by [The Parental Bereavement Leave and Pay \(Consequential Amendments to Subordinate Legislation\) Regulations 2020 \(S.I. 2020/354\)](#), regs. 1, **38(2)**

Modifications etc. (not altering text)

- C1** Reg. 21 applied (1.4.2015) by [The National Health Service Pension Scheme \(Transitional and Consequential Provisions\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/95\)](#), regs. 1(b), **8**

Qualifying service

- 22.**—(1) The qualifying service of a member (M) is the aggregate of the following periods—
- (a) M's pensionable service, except service mentioned in regulation 20(1)(c);
 - (b) a transfer in period;
 - (c) a transferred undertaking period;
 - (d) a period treated as qualifying service by virtue of paragraph (6);
 - (e) a period of relevant pensionable service in a connected scheme;
 - (f) a period of service in which M is a pensioner member in this scheme.
- (2) In determining a period of pensionable service for the purposes of paragraph (1)(a), paragraph (b) of regulation 20(2) must be ignored.
- (3) A transfer in period is the period equal to M's period as an active member in another occupational pension scheme (including a connected scheme) in relation to which a transfer value in respect of M's rights under the scheme has been accepted under Part 7.
- (4) A transferred undertaking period is the period of employment that qualified M for rights under another occupational pension scheme where—
- (a) M became an active member of this scheme on the transfer of M's employment to a new employer as the result of a transfer of undertaking to that employer; and
 - (b) no transfer payment in respect of those rights has been accepted under Part 7.
- (5) Paragraph (6) applies if M is employed on a casual basis or is a locum practitioner and, for a period not exceeding 3 months —
- (a) M ceases to pay contributions because of a break not exceeding that period in the employment in which M is an active member, but before the end of the period M re-enters the employment on the same basis as before the break, or
 - (b) M is not engaged as such a practitioner and so is not treated as being in pensionable service.
- (6) The period mentioned in paragraph (5) is treated as a period when M continues to be in qualifying service and—
- (a) M is not required to re-join the scheme on re-entering the employment or on being re-engaged; and
 - (b) if M is engaged as a locum practitioner, the period does not count as pensionable service as a practitioner.
- (7) Relevant qualifying service in a connected scheme is service that counts for the purposes of—
- (a) regulation C3 of the 2011 Regulations; or
 - (b) regulation 2.A.4 or 3.A.5 of the 2013 Regulations.

Modifications etc. (not altering text)

- C2** Reg. 22(5)(6) applied (with modifications) (1.4.2015) by [The National Health Service Pension Scheme \(Transitional and Consequential Provisions\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/95\)](#), regs. 1(b), 9(2)

Effect of break in pensionable service

23.—(1) In the following table a break in a period of pensionable service of a member (M) in circumstances set out in Column 1 has the effect described in Column 2.

Table

<i>Column 1</i>	<i>Column 2</i>
Part 1	
M leaves active membership, is neither qualified for a retirement pension pursuant to regulation 71 nor is a pensioner member because of rights resulting from that membership, then returns to active service	
1. The break—	The period of pensionable service before the break is treated as continuous with the period after the break.
(a) does not exceed one month; or	
(b) is due to a trade dispute (within the meaning of section 35(1) of the Jobseekers Act 1995 ^{M1}).	
2. No transfer payment is made to another scheme in respect of pensionable service before the break.	
3. It is immaterial if a refund of contributions is paid to M in respect of the period before the break.	
1. The break does not exceed 5 years.	The period of pensionable service before the break is treated as continuous with the period after the break.
2. No transfer payment is made to another scheme in respect of M's pensionable service before the break.	
3. If a refund of contributions in respect of the period before the break is paid to M, it is repaid before the end of the period of 6 months starting on the first day of pensionable service after the break.	
1. The break exceeds 5 years	The period of pensionable service before the break is not treated as continuous with the period after the break and does not count towards qualifying service.
2. M may claim a refund of contributions in respect of pensionable service before the break.	

Part 2

M leaves active membership, is qualified for a retirement pension pursuant to regulation 71 but is not a pensioner member because of rights resulting from that membership, then returns to active service

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|--|--|
| <ol style="list-style-type: none">1. The break does not exceed 5 years.2. No transfer payment is made to another scheme in respect of M's pensionable service before the break. | <p>The period of pensionable service before the break is treated as continuous with the period after the break.</p> |
| <ol style="list-style-type: none">1. The break exceeds 5 years.2. No transfer payment is made to another scheme in respect of M's pensionable service before the break | <p>The period of pensionable service before the break is not treated as continuous with the period after the break and does not count towards qualifying service</p> |
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(2) In paragraph (1) a reference to the repayment of a refund of contributions includes the repayment of any interest on the contributions.

Marginal Citations

M1 1995 c.18.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, CHAPTER 3.