
STATUTORY INSTRUMENTS

1995 No. 300

The National Health Service Pension Scheme Regulations 1995

PART L

Early leavers

Preserved pension

L1.—(1) Subject to paragraphs (3) and (4), a member who leaves pensionable employment before age 60 without becoming entitled to a pension under any of regulations E1 to E5 shall be entitled to receive a pension and retirement lump sum under this regulation from age 60 if—

- (a) the member leaves with at least 2 years' qualifying service, or
- (b) a transfer payment has been made to the scheme in respect of the member's rights under a personal pension scheme.

(2) The pension under this regulation will be calculated as described in regulation E1 (normal retirement pension) and the retirement lump sum will be calculated as described in regulation E6.

(3) The member shall be entitled to receive the pension and retirement lump sum before age 60 if—

- (a) the member is in NHS employment and the Secretary of State is satisfied that the member is suffering from mental or physical infirmity that makes him permanently incapable of efficiently discharging the duties of that employment;
- (b) the Secretary of State is satisfied that the member is suffering from mental or physical infirmity that makes him permanently incapable of engaging in regular employment; or
- (c) some other pension becomes payable to the member under any of regulations E1 to E5.

(4) If the member is in NHS employment (whether with the same or another employing authority) when he reaches age 60, the pension and lump sum on retirement will not become payable until the member leaves NHS employment or reaches age 70, whichever is the earlier.

(5) Subject to paragraph (6), where on or after the coming into force of these Regulations a member becomes entitled to a pension under paragraph (3)(a) or (b), the Secretary of State may discharge her liability for that pension by the payment of a lump sum.

(6) A lump sum payment under paragraph (5) may be made only if the Secretary of State is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member and the member was in pensionable employment on or after the coming into force of these Regulations.

(7) For the purpose of paragraph (6), the Secretary of State may require whatever medical evidence that she considers necessary.

(8) The amount of the lump sum payable under paragraph (5) will be equal to 5 times the difference between the yearly rate of the member's pension (calculated in accordance with this regulation) and the yearly rate of the member's guaranteed minimum pension or, if lower, twice the member's final year's pensionable pay (less the member's lump sum on retirement payable under

this regulation) and shall be payable in addition to the lump sum on retirement payable under this regulation, which shall not be subject to any reduction such as is described in regulation E6(3).

Refund of contributions

L2.—(1) A member who leaves pensionable employment without becoming entitled to a pension under regulations E1 to E5 or a preserved pension under regulation L1 shall be entitled to receive a refund of his contributions, less tax at 20 per cent. or such other rate as applies from time to time.

(2) A member who wishes to take a refund of contributions must apply in writing to the Secretary of State.

(3) If the member's employment was contracted-out by reference to the scheme, the member (and the member's spouse, if any) will remain entitled to a guaranteed minimum pension under the scheme, unless the Secretary of State discharges her liability to provide a guaranteed minimum pension by paying a contributions equivalent premium under section 55(2) of the Pension Schemes Act 1993.

(4) If a contributions equivalent premium is paid, the member's refund of contributions will be reduced by the amount recoverable under section 61 of the Pensions Schemes Act 1993 (deduction of contributions equivalent premium from refund of contributions).

(5) If a contributions equivalent premium is not paid, the member's refund of contributions will be reduced by the amount that the Secretary of State estimates would have been recoverable under section 61 of the Pensions Schemes Act 1993 if the premium had been paid.

(6) A member shall not be entitled to a refund of contributions for any period of service in respect of which the Secretary of State has received a transfer payment in respect of his rights under a personal pension scheme.

(7) Where a refund of contributions is made, the Secretary of State shall be discharged from any obligation to provide benefits under the scheme except to any extent provided for under paragraph (3).

Payment of interest with refund of contributions

L3.—(1) Compound interest will be added to a refund of contributions under regulation L2, except where the employment was terminated by reason of misconduct or inefficiency or at the member's request.

(2) Subject to paragraph (3), where compound interest is added to a refund of contributions, it will be calculated at the rate of 2.5 per cent. per year, for the period starting on the 1st April after the contributions were paid and ending on the day the member leaves pensionable employment.

(3) In the case of any contributions paid under another enactment or scheme and included in a transfer payment to the scheme, interest for the period before the transfer payment was accepted will be calculated as described in the enactment or scheme from which the transfer payment was received.

Early leavers returning to pensionable employment

L4.—(1) This regulation applies to any member who leaves pensionable employment without becoming entitled to a pension under any of regulations E1 to E5 and later returns to pensionable employment before becoming entitled to receive a pension under the scheme.

(2) If the member leaves pensionable employment with a preserved pension under regulation L1 and then returns to pensionable employment within 12 months after leaving, the member will cease to be entitled to the preserved pension under regulation L1 and the member's pensionable service before and after the break in pensionable employment will be treated as continuous.

(3) Subject to paragraph (5), if the member leaves pensionable employment with a preserved pension under regulation L1 and then returns to pensionable employment 12 months or more after leaving—

- (a) the member's pensionable service before and after the break in pensionable employment will be treated separately unless, when the member becomes entitled to receive a pension or the member dies (whichever occurs first), it would be more favourable to the member, or the member's spouse, to treat the member's pensionable service before and after the break, and all such other breaks (if any), as continuous; and
- (b) if the member becomes entitled to receive a pension under regulation E2 (early retirement pension on grounds of ill-health), the pensionable service upon which that pension is based will be increased as described in paragraphs (4) to (6) of that regulation if the member's pensionable service before and after the break in pensionable employment is treated as continuous, but there will be no increase to any of the member's pensionable service if the member's pensionable service before and after the break is treated separately.

(4) Subject to paragraph (5), if the member leaves pensionable employment without becoming entitled to a preserved pension and then returns to pensionable employment within 12 months after leaving, the member's pensionable service before and after the break in pensionable employment will be treated as continuous.

(5) Where paragraph (4) applies and the member has received a refund of contributions under regulation L2 in respect of pensionable service before the break in pensionable employment, the member's pensionable service before and after the break will be treated as continuous only if, within 6 months after rejoining the scheme, the member pays to the Secretary of State an amount equal to the refund of contributions (including any interest added under regulation L3).

(6) If a member leaves pensionable employment with a preserved pension and, after returning, again leaves pensionable employment without becoming entitled to a pension under any of regulations E1 to E5, the member will be entitled to a preserved pension under regulation L1 in respect of the period after the break in pensionable employment whether or not he has 2 years' qualifying service in respect of that period.

(7) A member whose pensionable service before and after a break in pensionable employment is treated as continuous and who, before the break, was paying for additional benefits by regular additional contributions under regulation Q6 (paying for additional service or unreduced retirement lump sum by regular additional contributions) must continue to pay for those additional benefits after the break.

(8) If a member's pensionable service before and after a break in pensionable employment is treated separately, the member's benefits in respect of each period of pensionable employment will be calculated separately, by reference to the member's pensionable service and final year's pensionable pay in respect of that period.