
STATUTORY INSTRUMENTS

1995 No. 300

The National Health Service Pension Scheme Regulations 1995

PART R

Special provisions for certain members

Practitioners and trainee practitioners

R1.—(1) These Regulations apply to members who are or have been practitioners as if they were officers employed by the relevant Family Health Services Authority, but with the modifications described in Schedule 2.

(2) These Regulations apply to members who are or have been trainee practitioners as if they were whole-time officers employed by the relevant District Health Authority.

Nurses, physiotherapists, midwives and health visitors

R2.—(1) Subject to paragraph (2), this regulation applies to a member—

(a) who, at the coming into force of these Regulations—

(i) is in pensionable employment as a nurse, physiotherapist, midwife or health visitor,
or

(ii) has accrued rights to benefits under the scheme arising out of a previous period in which she was engaged in such employment and at no time since the last occasion on which she was so engaged has she had a break in pensionable employment for any one period of 5 years or more,

and

(b) who spends the whole of the last 5 years of her pensionable employment as a nurse, physiotherapist, midwife or health visitor.

(2) This regulation shall cease to apply if the member has a break in pensionable employment for any one period of 5 years or more ending after the coming into force of these Regulations.

(3) Where this regulation applies—

(a) regulation E1 (normal retirement pension) will apply to the member as if the reference, in paragraph (1) of that regulation, to age 60, were a reference to age 55;

(b) if the member leaves pensionable employment because of redundancy, but without becoming entitled to a pension under regulation E3 (early retirement pension on grounds of redundancy), regulation L1 (preserved pension) will apply as if the references, in paragraphs (1), (3) and (4) of that regulation, to age 60, were references to age 55.

(4) Where, in accordance with paragraph (3), a member becomes entitled to receive a pension before age 60, the amount payable shall—

(a) in the case of a female member, be calculated by reference to all of her pensionable service under the scheme; and

(b) in the case of a male member, be calculated only by reference to pensionable service on or after 17th May 1990.

(5) Subject to regulation Q6(4), if the member chooses to pay for additional service or unreduced retirement lump sum by regular additional contributions under regulation Q6, contributions may be made from the next birthday following the exercise of the right to do so, until the member's 55th, 60th or 65th birthday, whichever the member chooses, and that date will be the chosen date under regulation Q6(3).

(6) For the purposes of paragraphs (1) and (2), pensionable employment includes employment that qualified the member for benefit under a health service scheme.

(7) For the purpose of calculating the 5 year period referred to in paragraph (1)(b), "pensionable employment" does not include additional service bought under regulation Q1 or a period in respect of which a refund of contributions has been paid under regulation L2.

Mental health officers

R3.—(1) Subject to paragraph (2), this regulation applies to a member who at the coming into force of these Regulations—

- (a) is in pensionable employment under the scheme as a mental health officer, or
- (b) has accrued rights to benefits under the scheme arising out of a previous period in which he was engaged in such employment and at no time since the last occasion on which he was so engaged has he had a break in pensionable employment for any one period of 5 years or more.

(2) Subject to paragraph (3), this regulation shall cease to apply if the member has a break in pensionable employment for any one period of 5 years or more ending after the coming into force of these Regulations.

(3) Paragraph (2) shall be without prejudice to the operation of paragraph (5)(a) in relation to any period prior to this regulation ceasing to apply.

(4) For the purposes of paragraphs (1) and (2), "pensionable employment" includes employment that qualified the member for benefit under a health service scheme.

(5) Subject to paragraphs (6) and (7), where this regulation applies—

- (a) if the member has in excess of 20 years' pensionable service as a mental health officer, regulation E1 (normal retirement pension) will apply as if the reference, in paragraph (1) of that regulation, to age 60, were a reference to age 55, but only if the member was in pensionable employment as a mental health officer immediately before leaving; and
- (b) each complete year of pensionable service as a mental health officer in excess of 20 years will count as 2 years' pensionable service.

(6) For the purposes of calculating the 20 year period referred to in paragraph (5)—

- (a) there shall, in the case of a member who has reached age 50, be taken into account any period before he became a mental health officer in which he was employed on the staff of a hospital used wholly or partly for the treatment of persons suffering from mental disorder and in which he devoted the whole or substantially the whole of his time to the treatment and care of such persons, unless it would be more favourable to the member (or, if the member has died, to the persons entitled to benefits in respect of the member) to disregard any such period;
- (b) pensionable service does not include additional service bought under regulation Q1 (right to buy additional service).

(7) Paragraph (5) does not apply—

- (a) for the purpose of calculating, under regulations E2 (early retirement pension on grounds of ill-health) and H3, H4 and H5 (child allowance), the pensionable service the member could have completed if he had stayed in pensionable employment until a particular age;
- (b) for the purpose of calculating a minimum widow's or widower's pension based on the member's pensionable service after 5th April 1978 under regulation G6(2) (member marries after leaving pensionable employment); or
- (c) for the purpose of calculating a member's benefits where it would be more favourable to the member or other person entitled to the benefits not to apply that paragraph and to calculate the member's benefits by reference to the member's final year's pensionable pay when the member leaves pensionable employment, completes 45 years' pensionable service (calculated without regard to paragraph (5)(b)), reaches age 65 or dies, whichever occurs first.

(8) Where, by virtue of paragraph (7)(c), paragraph (5) does not apply, the amount of any contributions that should have been paid by the member under regulation D1 (contributions by members), but which were not deducted from the member's earnings, will be deducted from the lump sum payable on the member's retirement or death.

(9) If a member who has in excess of 20 years pensionable service for the purposes of paragraph (5) leaves NHS employment before reaching age 55 because of redundancy, but without becoming entitled to a pension under regulation E3 (early retirement pension on grounds of redundancy), and was in pensionable employment as a mental health officer immediately before leaving, regulation L1 (preserved pension) will apply as if the references in that regulation, to age 60, were to age 55.

(10) Subject to paragraph (12), if any member to whom this regulation applies becomes entitled to a preserved pension under regulation L1 on ceasing to be a mental health officer, the pension will be based on the greater of the member's basic service and a period of service calculated as—

$$\frac{\text{basicservice}}{\text{potentialbasicservice}} \times \text{potentialservice}$$

where—

“basic service” means the member's pensionable service, calculated without regard to paragraph (5);

“potential basic service” means the pensionable service the member could have completed if he had stayed in pensionable employment until age 55, calculated without regard to paragraph (5); and

“potential service” means the pensionable service the member could have completed, taking account of paragraph (5), if he had stayed in pensionable employment as a mental health officer until age 55.

(11) Subject to paragraph (12), if a member with at least 2 years' qualifying service ceases to be a mental health officer while continuing in pensionable employment, the member's pension in respect of the period before ceasing to be a mental health officer will, if it would be more favourable to him, be of an amount equal to the preserved pension to which the member would have become entitled in accordance with paragraph (10) if he had left pensionable employment on the day he ceased to be a mental health officer.

(12) Paragraphs (10) and (11) do not apply if the member again becomes a mental health officer within 12 months after the date on which he ceased to be a mental health officer.

(13) Subject to regulation Q6(4), if a member elects to pay for additional service or unreduced retirement lump sum by regular additional contributions under regulation Q6 he may elect to make those contributions from his next birthday following the date on which he elected to buy the

additional service or unreduced lump sum until his 55th, 60th or 65th birthday, whichever he chooses, and that date will be the chosen date under regulation Q6(3).

(14) In this regulation, “mental health officer” means—

- (a) an officer working whole-time on the medical or nursing staff of a hospital used wholly or partly for the treatment of persons suffering from mental disorder, who devotes all, or almost all, of his time to the treatment or care of persons suffering from mental disorder;
- (b) any other officer employed in such a hospital who is within a class or description of officers designated by the Secretary of State as mental health officers for this purpose; and
- (c) a consultant, senior hospital medical officer or senior hospital dental officer in part-time NHS employment who devotes all, or almost all, his time to the treatment or care of persons suffering from mental disorder and who satisfies the requirements of paragraph (15).

(15) A member satisfies the requirements of this paragraph if he holds a whole-time specialist post and either—

- (a) he receives at least 10/11ths of the pensionable pay that he would have received for whole-time NHS employment, or
- (b) he was appointed before 1st January 1980 and retains the right, to which he was entitled on 31st December 1979, to be paid at least 9/11ths of the pensionable pay that he would have received for whole-time NHS employment.

(16) The Secretary of State may agree to treat as a mental health officer any member who, by reason of having transferred to part-time pensionable employment, would otherwise have ceased to be a mental health officer providing that person is engaged in work which had it been whole time, would have qualified that member for mental health officer status and there is no break in pensionable employment between the transfer from whole-time to part-time employment.

(17) Where a member is treated as a mental health officer by virtue of paragraph (15) or (16), each year of part-time pensionable service shall, for the purpose of determining whether the member has in excess of 20 years pensionable service for the purposes of paragraph (5) (but for no other purpose), be treated as if it were a year of whole-time pensionable service.

Members doing more than one job

R4.—(1) This regulation applies to members in NHS employment with more than one employing authority and members who hold, under one employing authority, two or more separate employments.

(2) The member may contribute to the scheme in respect of all or any of his employments with employing authorities, providing that the employments in respect of which he chooses to contribute to the scheme do not in aggregate exceed, as determined by the Secretary of State, a single comparable whole-time employment.

(3) Any amount by which the member’s pensionable pay in respect of concurrent part-time employments exceeds the amount that the Secretary of State determines would have been paid in respect of a single comparable whole-time employment will be ignored.

(4) Any amount by which the member’s pensionable service in respect of concurrent part-time employments, calculated as described in regulation R5 (pensionable service in respect of part-time employment), exceeds the period during which the member carried on those employments, will be ignored.

(5) Subject to paragraph (6), the member shall not become entitled to a pension under any of regulations E1 to E5 or a preserved pension under regulation L1 until the termination of all NHS employments (including employment as a practitioner) or he reaches age 70.

(6) If the member leaves employment with one employing authority and becomes entitled to a pension under regulation E3 (early retirement pension on grounds of redundancy) in relation to the employment that has ended, the member may elect to take benefits only in respect of the employment that has ended and to continue to accrue rights to benefits in respect of any other continuing pensionable employment.

(7) Where the member elects under paragraph (6), paragraph (5) will apply in relation to any employment in respect of which the member continues to accrue rights to benefits.

(8) For the purposes of paragraph (5) the member, on leaving NHS employment, shall be treated as having terminated all NHS employment where any remaining NHS employment amounts to 16 hours per week or less.

(9) Regulation S2 (reduction of pension on return to NHS employment) will apply to any member who becomes entitled to a pension under paragraph (6) while continuing in other NHS employment.

(10) In calculating the member's final year's pensionable pay there shall be taken into account pensionable pay in respect of any other pensionable employment in that final year except a pensionable employment in respect of which the member continues to accrue benefits in accordance with paragraph (6).

(11) The member will not receive a refund of contributions under regulation L2 until he leaves all pensionable employment without becoming entitled to a pension under any of regulations E1 to E5 or a preserved pension under regulation L1.

(12) The member may exercise a right to transfer or buy-out under regulations M1 to M5 (transfers and buy-outs) only if he leaves all pensionable employment before reaching age 60 and before becoming entitled to a pension under the scheme.

Part-time employment

R5.—(1) Subject to paragraphs (6) and (10), a member's pensionable service in part-time employment will not count at its full length but will be calculated as described in paragraphs (2) or (3), whichever is applicable, as its whole-time equivalent.

(2) If the member's part-time employment is expressed as a specified number of half-days or sessions a week, the whole-time equivalent of the member's pensionable service in respect of that employment will be calculated by multiplying the full length of that service by the following fraction—

$$\frac{\text{member's pensionable pay}}{\text{comparable whole-time earnings}}$$

(3) In any case where paragraph (2) does not apply, the whole-time equivalent of the member's pensionable service in respect of part-time employment will be calculated by multiplying the full length of that service by the following fraction—

$$\frac{\text{member's hours of employment each week}}{\text{hours constituting comparable whole-time employment}}$$

(4) Subject to paragraph (5), for the purpose of calculating a member's final year's pensionable pay in respect of part-time employment, the member's pensionable pay will be the amount that the Secretary of State determines would have been paid in respect of a single comparable whole-time employment.

(5) Paragraph (4) does not apply to the calculation of final year's pensionable pay for the purposes of—

- (a) regulations F1(2) and F2(2) (lump sum payable on death in pensionable employment or after pension becomes payable);

- (b) regulation S2 (reduction of pension on return to NHS employment).
- (6) If a member with pensionable service in part-time employment becomes entitled to a pension under regulation E2 (early retirement pension on grounds of ill health)—
- (a) the member's pensionable service in part-time employment will count at its full length for the purpose of calculating whether, and (if so) to what extent, the pensionable service upon which the pension is based should be increased under regulation E2;
 - (b) the pension will be based on the whole-time equivalent of the period of part-time employment and the increase under regulation E2 will be limited to such amount as bears the same proportion to the amount that would have been paid had the pensionable service not been part-time as the whole time equivalent bears to comparable whole time employment.
- (7) If a member in part-time pensionable employment elects to buy additional service as described in regulation Q1 (right to buy additional service), the period of additional service will be calculated in accordance with Table 1 or Table 3 of Schedule 1 (whichever is applicable) and then reduced by multiplying the full length of that additional service by the following fraction—
- $$\frac{\text{part-time pensionable employment}}{\text{comparable whole-time pensionable employment}}$$
- where—
- “part-time pensionable employment” means the number of hours, half-days or sessions that the member was required to work under his contract of employment during the period by reference to which “remuneration” was calculated for the purposes of Table 1 of Schedule 1 or regular additional contributions were paid in accordance with regulation Q6 (paying by regular additional contributions); and
- “comparable whole-time pensionable employment” means the number of hours, half-days or sessions that would have constituted comparable whole-time pensionable employment during that period.
- (8) If a member in part-time pensionable employment elects to buy an unreduced retirement lump sum as described in regulation Q2 (right to buy an unreduced retirement lump sum), the period referred to in Table 2 or Table 4 of Schedule 1 (whichever is applicable) will be reduced in like manner as described in paragraph (7) above.
- (9) Paragraphs (7) and (8) above also apply for the purposes of regulation Q7 (part payment for additional service or unreduced retirement lump sum).
- (10) A member's pensionable service in respect of part-time employment will count at its full length (and concurrent periods of employment will be treated as a single employment) for the purposes of regulations C2(3) (limit on pensionable service that counts for benefits) and C3(1) (qualifying service).

Members entitled to fees for domiciliary consultations

R6.—(1) This regulation applies to members who, as medical or dental officers, have received fees from an employing authority in respect of domiciliary consultations.

(2) Any fees received in respect of domiciliary consultations will be included in the member's pensionable pay for the purposes of regulation D1 (contributions by members).

(3) Any fees in respect of domiciliary consultations that are included in the member's pensionable pay for the purposes of regulation D1 will also be included in the member's pensionable pay for the purpose of deciding the year by reference to which final year's pensionable pay is to be calculated, but the member's final year's pensionable pay will then be reduced by the amount of any fees received in respect of domiciliary consultations during that year.

(4) If the member's final year's pensionable pay is reduced as described in paragraph (3), a supplementary benefit shall be payable with each benefit that is payable to, or in respect of, the member under the scheme.

(5) Subject to paragraph (6), each supplementary benefit that is payable in accordance with paragraph (4) will be calculated in the same way as the benefit that it supplements as if the amount of the fees received in respect of domiciliary consultations during the year by reference to which final year's pensionable pay is calculated were the member's final year's pensionable pay.

(6) Any supplementary benefit will be based on the same pensionable service as the benefit that it supplements, except that—

- (a) any period of additional service bought as described in regulation Q1 (right to buy additional service) will be ignored;
- (b) any additional period of pensionable service credited to the member by virtue of paragraph (5)(b) of regulation R3 (mental health officers) will be ignored;
- (c) any period of service calculated as described in regulation 35(7) of the previous regulations (calculation of service in respect of part-time employment before 15th December 1966) will be ignored; and
- (d) where that pensionable service consists of or includes part-time employment, regulation R5(1) (part-time employment) will be ignored.

(7) If the member exercises a right to buy additional service under regulation Q1 or unreduced retirement lump sum under regulation Q2, the amount of any fees received from an employing authority in respect of domiciliary consultations will not be included in the member's pensionable pay for the purpose of calculating the cost of the additional service or unreduced retirement lump sum, except as described in paragraph (8).

(8) If the member exercises a right to buy an unreduced retirement lump sum under regulation Q2—

- (a) any fees received during the last financial year ending before the member elects to buy an unreduced retirement lump sum will be included in the member's remuneration for the purpose of calculating the amount payable under regulation Q5(3) (paying for an unreduced retirement lump sum by a single payment); and
- (b) any fees received while the member is paying for an unreduced retirement lump sum by regular additional contributions will be included in the member's pensionable pay for the purposes of regulation Q6(5) (paying for an unreduced retirement lump sum by regular additional contributions).

(9) If the member returns to NHS employment after becoming entitled to a pension, the member's final year's pensionable pay will include, for the purposes of calculating previous pay under regulation S2 (reduction of pension on return to NHS employment), the amount of any fees received in respect of domiciliary consultations during the year by reference to which final year's pensionable pay is calculated.

Members who work temporary additional sessions

R7.—(1) This regulation applies to members who work temporary additional sessions.

(2) Any period of employment in respect of a temporary additional session will be ignored when calculating a member's pensionable service, and any payment received in respect of that employment will be ignored when calculating the member's pensionable pay.

(3) In this regulation, "temporary additional session" means a session equivalent to an extra notional half-day which a specialist or an officer appointed to a post in the grade of associate specialist has, in exceptional circumstances, undertaken to work and which does not form part of the member's normal contractual duties.

(4) In the case of a member who holds a whole-time specialist post and who receives at least 10/11ths of the pensionable pay that he would have received for whole-time pensionable employment, temporary additional session also includes any session in excess of 10 in any one week, regardless of its length.

Former members of health service schemes

R8.—(1) For the purposes of these Regulations, “health service scheme” means—

- (a) a superannuation scheme provided under regulations made under section 10 of the Superannuation Act 1972 and for the time being in force in relation to Scotland,
- (b) a superannuation scheme provided under regulations for the time being in force under Article 12 of the Superannuation (Northern Ireland) Order 1972 or a scheme made under section 2 of the National Health Service (Isle of Man) Act 1984 (an Act of Tynwald), or
- (c) any other occupational pension scheme approved for this purpose by the Secretary of State.

(2) A member who leaves employment in respect of which he qualified for benefit under a health service scheme and who joins the scheme may, subject to paragraphs (3) and (4), require the Secretary of State to credit him with a period of pensionable service (together with the rights attaching to that service) under the scheme, calculated as if—

- (a) the employment to which the health service scheme applied were NHS employment; and
- (b) the member’s contributions to the health service scheme were contributions to the scheme.

(3) The member may exercise this right only if a transfer payment is made from the health service scheme to the scheme.

(4) A member who wishes to exercise this right must do so by making application in writing to the Secretary of State within 1 year after joining the scheme.

(5) A member who leaves employment to which a health service scheme applied without becoming entitled to any benefits other than a return of contributions may buy additional service as described in regulation Q1 (right to buy additional service) and regulations Q4(7) and Q6(8) will apply, as the case may be, as if the previous service under a health service scheme were previous pensionable service under this scheme.

Members whose earnings are reduced

R9.—(1) A member with at least 2 years’ qualifying service who suffers a reduction in earnings in the circumstances described in paragraph (2) may opt to take a preserved pension under regulation L1 in respect of his pensionable service before his earnings were reduced.

(2) A member acquires the right described in this regulation if the reduction is due to—

- (a) the member being transferred to other employment with an employing authority;
- (b) the member taking up other employment with an employing authority, in circumstances approved by the Secretary of State; or
- (c) a change in the member’s duties, while continuing in the same employment, otherwise than at the member’s request or as a result of something done by the member.

(3) The preserved pension will be calculated and paid as described in regulation L1 (preserved pension), as if the member had left pensionable employment immediately before his earnings were reduced.

(4) A member wishing to exercise the option described in this regulation must make application in writing to the Secretary of State within 3 months after his earnings are reduced.

(5) If a member continues to contribute to the scheme after exercising the option described in this regulation, the member’s pensionable service before and after the member’s earnings are reduced

will, subject to paragraph (6), be treated separately unless, when the member becomes entitled to receive a pension, or dies, (whichever occurs first), it would be more favourable to the member to treat the member's pensionable service before and after the reduction, and all such other reductions (if any), as continuous.

(6) The member's pensionable service before and after the member's earnings are reduced—

- (a) will be treated as continuous for the purpose of calculating the member's qualifying service under regulation C3 (meaning of "qualifying service"); and
- (b) if the member next leaves pensionable employment with a pension under regulation E2 (early retirement pension on grounds of ill-health), will be treated as continuous for the purpose of calculating whether, and if so to what extent, the pensionable service on which the pension is based should be increased.

(7) If the member leaves pensionable employment with a pension under regulation E2 and the member's pensionable service falls to be increased as described in paragraphs (4) to (6) of that regulation then, if the member's pensionable service before and after the break is treated separately under paragraph (5), the increase will apply only in respect of benefits attributable to the period after the member's earnings were reduced.

Polygamous marriages

R10.—(1) If a member dies without leaving a widow or widower but the member was at the date of death married to a spouse under a law which permits polygamy any benefits that would be payable to the member's widow or widower shall be payable to that spouse, or where there is more than one, to those spouses in equal shares.

(2) The shares will be calculated as at the date the member dies.

(3) A spouse's share of a pension will not be increased on the death of any other spouse.