
STATUTORY INSTRUMENTS

1995 No. 300

The National Health Service Pension Scheme Regulations 1995

PART S

Members who return to NHS employment after pension becomes payable

Reduction of pension on return to NHS employment

S2.—(1) This regulation applies, until he reaches age 60, to a member in respect of whom a pension is payable under any of regulations E1 to E5 or L1, who continues in, or subsequently returns to, NHS employment.

(2) A member to whom this regulation applies must inform his employer, and any other person that the Secretary of State may specify, that his pension under the scheme has become payable.

(3) Where this regulation applies, the member's pension will be reduced to the extent necessary to ensure that the member's pension plus pay from NHS employment for any financial year after the pension becomes payable does not exceed the member's previous pay.

(4) A member's pension will be reduced as described in this regulation whether or not the member is included in the scheme in respect of the employment after his pension becomes payable and regardless of any provision of these Regulations under which a member may be treated as having left NHS employment without actually leaving.

(5) For the purposes of paragraph (3), the amount to be taken as the member's previous pay shall—

- (a) be increased in each financial year by the amount by which a pension beginning on the date on which the member's pension under the scheme became payable (or, if earlier, the member left pensionable employment) would have been increased under Part I of the Pensions (Increase) Act 1971 at the 6th April falling in that financial year;
- (b) in the case of a person who holds a continuing employment (otherwise than as a practitioner), be increased by the annual rate of pay in respect of the continuing employment; and
- (c) in the case of a person who is employed as a practitioner in continuing employment, be increased by the average of the annual amounts of uprated earnings in respect of the last 3 financial years prior to the pension referred to in paragraph (1) becoming payable.

(6) For the purpose of calculating the reduction to be made under paragraph (3) in respect of any part of a financial year, the amount of the member's "previous pay" will be reduced proportionately.

(7) This paragraph applies to a person who held a part-time pensionable employment immediately before the pension described in paragraph (1) became payable and who, within the 12 months preceding the date on which the pension became payable, held a concurrent part-time pensionable employment.

(8) Where paragraph (7) applies and the concurrent part-time pensionable employment terminated before the pension described in paragraph (1) became payable, previous pay shall be increased as described in paragraph (9).

(9) For the purpose of paragraph (8), previous pay shall be increased by the annual rate of pay in respect of the concurrent part-time employment mentioned in that paragraph or, if higher, that part of the pensionable pay for that employment which falls within the 12 month period mentioned in paragraph (7).

(10) This paragraph applies to a person who within the 12 months preceding the date on which the pension described in paragraph (1) became payable, was in pensionable employment as a practitioner.

(11) Where paragraph (10) applies and the pensionable employment as a practitioner terminated before the pension described in paragraph (1) became payable, previous pay shall be increased as described in paragraph (12).

(12) For the purpose of paragraph (11), previous pay shall be increased by the average of the annual amounts of the member's uprated earnings in respect of the pensionable employment as a practitioner mentioned in that paragraph.

(13) For the purpose of paragraph (11), "uprated earnings" means the same as in paragraph 11(2) of Schedule 2.

(14) For the purposes of this regulation—

"annual rate of pay" means the annual rate of so much of the member's pensionable pay immediately before his pension became payable as consisted of salary, wages or other regular payments of a fixed nature plus so much of his pensionable pay as consisted of fees and other regular payments not of a fixed nature as was payable during the last year before his pension became payable;

"continuing employment" means a pensionable employment which a person held immediately before he became entitled to a pension under the scheme and which he continues to hold whether it is pensionable or not;

"NHS employment" has the same meaning as in regulation S1(5);

"pension" means the amount of pension paid under the scheme for any financial year, plus any increases to that pension payable under Part I of the Pensions (Increase) Act 1971 for that period;

"pay" means the amount of pensionable pay received by the member during that financial year from NHS employment (or what would have been his pensionable pay had he been in pensionable employment); and

"previous" pay means, the greater of—

- (a) final year's pensionable pay; and
- (b) the annual rate of pay for any pensionable employment in respect of which the pension referred to in paragraph (1) became payable and which the member held immediately before becoming entitled to that pension.