

SCHEDULE 10

MODIFIED APPLICATION IN CERTAIN CASES

PART VI

PERSONS FORMERLY MEMBERS OF THE NATIONAL HEALTH SERVICE PENSION SCHEME

33. In this Part—

- (a) “the 1995 Regulations” means the National Health Service Pension Scheme Regulations 1995(1); and
- (b) the expressions “member” and “scheme” shall be construed in accordance with the 1995 Regulations.

34. This Part applies to a person who—

- (a) immediately before he was in pensionable employment (within the meaning of these Regulations) was in pensionable employment within the meaning of the 1995 Regulations; and
- (b) who ceased to be in pensionable employment within the meaning of the 1995 Regulations and became employed in pensionable employment within the meaning of these Regulations by virtue of a relevant transfer within the meaning of the Transfer of Undertakings (Protection of Employment) Regulations 1981(2).

35. Where a transfer value has been accepted in respect of a person to whom this Part applies pursuant to a written request made by that person within 12 months of the date of the transfer referred to in paragraph 34 he is entitled to count as reckonable service the period which, at the time of that transfer, he was entitled to count as pensionable service for the purposes of the 1995 Regulations.

36.—(1) If a person to whom this Part applies—

- (a) chose, while he was a member of the scheme to increase his right to benefits under the scheme by buying additional service under regulation Q1 of the 1995 Regulations by making regular additional contributions; and
- (b) at the time of the relevant transfer referred to in paragraph 34 had not completed the payment of the additional contributions

he may complete the payment of such contributions as if Part Q of the 1995 Regulations applied to him and (if he does so) shall accordingly be entitled to count as reckonable service the additional service which would have been bought under Part Q of the 1995 Regulations by the payment of such contributions.

(2) For the purposes of regulations C13, C18 and H6 the contributions referred to in this paragraph shall be treated as having been paid under regulation C4.

(3) For the purposes of any provision in these Regulations which imposes a maximum on the contributions which a person can make, the contributions referred to in this paragraph shall be treated as paid under Part C.

37. Where a person to whom this Part applies—

(1) [S.I. 1995/300](#).

(2) [S.I. 1981/1794](#); amended by [S.I. 1987/442](#), [1995/2587](#) and the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 33.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (a) was, immediately before the relevant transfer referred to in paragraph 34, a person to whom regulation R2 of the 1995 Regulations or regulation 54 of the National Health Service (Superannuation) Regulations 1980⁽³⁾ (special provision for certain nurses, physiotherapists, midwives and health visitors) or regulation R3 of the 1995 Regulations or regulation 55 of the National Health Service (Superannuation) Regulations 1980 (special provision for certain mental health officers) applied, and
- (b) has continued to be such a person after the said transfer save only that his employer was not an employing authority within the meaning of the 1995 Regulations,

regulation E4 shall apply in relation to that person as if the references to the age of 60 were references to the age of 55.

38.—(1) Where a transfer value has not been accepted in relation to a person to whom this Part applies, the period during which the person was in pensionable employment within the meaning of the 1995 Regulations is comprised in a qualifying period for the purposes of Regulation E3.

(2) Sub-paragraph (1) above shall not be taken as precluding such a period from falling within paragraph 4 of Schedule 8 in a case where a transfer value has been accepted.

(3) S.I. 1980/362; a relevant amending instrument is S.I. 1982/1765.