
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 174

**The National Health Service Superannuation
Scheme (2008 Section) (Scotland) Regulations 2013**

PART 3

BENEFITS FOR PRACTITIONERS, ETC.

CHAPTER 3.F

TRANSFERS

Transfers across

[^{F1}Right to transfer a deferred pension to the 2015 Scheme

3.F.18.—(1) An active member of the 2015 Scheme, who meets both condition A and one of either condition B or condition C, may require the Scottish Ministers to use the cash equivalent of the member's rights under this Section of the scheme to acquire rights in the 2015 Scheme: this is subject to the following provisions of this regulation.

(2) Condition A is that the member—

- (a) is a deferred member of this Section of the scheme; and
- (b) became an active member of the 2015 Scheme before attaining the age of 65.

(3) Condition B is that the member has a break in pensionable employment for any one period of more than five years beginning with the day immediately following the cessation of the pensionable service in respect of which that person is a deferred member of this Section of the scheme and ending on the day immediately before the person became an active member of the 2015 Scheme in accordance with paragraph (2)(b).

(4) Condition C is that the member—

- (a) has a break in active membership of the 2015 Scheme for any one period of more than five years which is the first break of such a period since that membership commenced; and
- (b) has not previously had a break in pensionable employment before becoming an active member of the 2015 Scheme which would satisfy condition B.

(5) For the purposes of paragraphs (3) and (4), any break in active membership of this Section of the scheme where the member was in pensionable public service as defined in paragraph 3(2) of Schedule 7 to the 2013 Act is to be disregarded.

[
^{F2}(5A) The Scottish Ministers must provide a member to whom this regulation applies with a notice in writing stating that the member has the right to request a statement of the amount of the cash equivalent of the member's benefits accrued in accordance with these Regulations ("a statement of entitlement").

(5B) The Scottish Ministers must provide the member with the notice referred to in paragraph (5A) within the period of three months beginning with the date on which the Scottish Ministers receive notification from the member's employing authority that the member has joined the 2015 Scheme.

(5C) In accordance with paragraph (5D), a member who has received a notice provided in accordance with paragraph (5A) may request the Scottish Ministers to provide a statement of entitlement.

(5D) For the purposes of paragraph (5C), a request for a statement of entitlement must—

- (a) be made by the member in writing on the form provided by the Scottish Ministers for that purpose;
- (b) be received by the Scottish Ministers before the end of the three month period beginning with the date of the notice under paragraph (5A).]

[^{F3}(6) The Scottish Ministers must provide a member who has requested a statement of entitlement in accordance with paragraph (5D) with a statement of entitlement at the guarantee date.]

(7) In this regulation, "the guarantee date" means any date that falls within the required period and is—

- (a) chosen by the Scottish Ministers;
- (b) specified in the statement of entitlement; and
- (c) within the period of 10 days ending with the date on which the member is provided with the statement of entitlement.

(8) In counting the period of 10 days referred to in paragraph (7)(c), Saturdays, Sundays, Christmas Day, New Year's Day and Good Friday are excluded.

(9) In paragraph (7), "the required period" means—

- [^{F4}(a) the period of three months beginning with the date on which the Scottish Ministers receive the member's request for a statement of entitlement made in accordance with paragraph (5D); or]
- (b) such longer period beginning with that date (but not exceeding six months) as may be reasonably required if, for reasons beyond the control of the Scottish Ministers, the requisite information cannot be obtained to calculate the amount of the cash equivalent.

(10) Subject to paragraphs (11) to (13), the member's guaranteed cash equivalent shall be equal to the capitalised value of all of the member's rights to benefits accrued under these Regulations and any associated rights under Part I of the Pensions (Increase) Act 1971.

(11) The Scottish Ministers must—

- (a) take advice from the scheme actuary before determining the factors to be used in the calculation of the member's guaranteed cash equivalent; and
- (b) calculate and verify the amount of the guaranteed cash equivalent in accordance with the Occupational Pension Schemes (Transfer Values) Regulations 1996.

(12) A member's cash equivalent will be at least equal to the amount of any transfer payments accepted in respect of the member under regulation 3.F.10 (which deals with the crediting of additional service upon transfer), plus the amount of the member's contributions to this Section of the scheme.

(13) A member who has received a statement of entitlement in accordance with paragraph (6) may apply to the Scottish Ministers for the cash equivalent of the member's rights under this Section of the scheme to be used to acquire rights under the 2015 Scheme.

(14) An application under this regulation must be made in respect of each and every portion of the cash equivalent and is—

- (a) to be made in writing on the form provided for this purpose by the Scottish Ministers;
 - (b) to be made before the end of the period of three months beginning with the guarantee date;
 - (c) irrevocable.
- (15) On the making of such an application—
- (a) a member becomes entitled to be credited with an increase to the member’s pensionable earnings and a period of pensionable service in the 2015 Scheme in respect of the cash equivalent value of the member’s benefits under this Section of the scheme calculated in accordance with regulation 144 of the 2015 Scheme, and
 - (b) the member’s rights under this Section of the scheme are extinguished on the day that the member is credited with an increase to the member’s pensionable earnings and a period of pensionable service in accordance with regulation 144 of the 2015 Scheme.
- (16) A member’s right to require the Scottish Ministers to use the cash equivalent of the member’s rights in the way referred to in paragraph (1) may only be exercised once.]

Textual Amendments

- F1** Reg. 3.F.18 inserted (1.4.2015) by [The National Health Service Superannuation Scheme \(Miscellaneous Amendments\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/96\)](#), regs. 1, **45**
- F2** [Regs. 3.F.18\(5A\)-\(5D\)](#) inserted (with effect in accordance with reg. 1(2)(a) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/434\)](#), regs. 1(1), **18(2)** (with reg. 19)
- F3** Reg. 3.F.18(6) substituted (with effect in accordance with reg. 1(2)(a) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/434\)](#), regs. 1(1), **18(3)** (with reg. 19)
- F4** Reg. 3.F.18(9)(a) substituted (with effect in accordance with reg. 1(2)(a) of the amending S.S.I.) by [The National Health Service Superannuation Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/434\)](#), regs. 1(1), **18(4)** (with reg. 19)

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (2008 Section) (Scotland) Regulations 2013, Section 3.F.18.