
STATUTORY INSTRUMENTS

1995 No. 300

The National Health Service Pension Scheme Regulations 1995

PART M

Transfers and buy-outs

Member's right to transfer or buy-out

M1.—(1) A member who leaves pensionable employment with a preserved pension before reaching age 60 may require the Secretary of State to transfer or buy-out his rights under the scheme as described in this regulation.

(2) Subject to paragraphs (3) and (4), the member may require the Secretary of State to use the cash equivalent of his rights under the scheme—

- (a) to purchase one or more buy-out policies from one or more insurance companies chosen by the member; or
- (b) to acquire rights under another occupational pension scheme, or under a personal pension scheme, that satisfies the requirements of Chapter IV of Part IV of the Pension Schemes Act 1993 (transfer values); or
- (c) in any combination of the ways described in sub-paragraphs (a) and (b);

provided that the right is exercised in relation to each and every portion of the cash equivalent.

(3) A member may require the Secretary of State to use the cash equivalent of his rights under the scheme to purchase one or more buy-out policies or to acquire rights under a personal pension scheme only—

- (a) if the member leaves pensionable employment on or after 1st January 1986; and
- (b) where those rights are to be transferred to a personal pension scheme, in relation to any period of service of 2 years or more falling before 6th April 1988, if a period of not less than one month has elapsed between the date the member left NHS employment and the date of commencement of any further NHS employment.

(4) A member who leaves pensionable employment with a preserved pension after reaching age 59 may require the Secretary of State to use the cash equivalent only to acquire rights under another occupational pension scheme.

(5) Where a member leaves pensionable employment by opting-out and on so doing becomes entitled to a preserved pension under regulation L1 then, if the member has at least 2 years' service before 6th April 1988, the member's right to require a transfer or buy-out will be limited to the cash equivalent of the part of his rights that is attributable to service after 5th April 1988 and the member will acquire a right to the cash equivalent of his remaining rights only if he actually leaves NHS employment before reaching age 60.

(6) A member loses the right referred to in paragraph (1) if any pension under the scheme becomes payable to the member before the member reaches age 60.

(7) Where the Secretary of State has done what is needed to carry out what the member requires under this regulation, the Secretary of State will be discharged from any obligation to provide

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benefits for or in respect of the member under the scheme, except that the Secretary of State will continue to be liable to provide a guaranteed minimum pension in respect of the member where regulation M3(2) applies (unless the Secretary of State discharges that liability under regulation K7 (State scheme premiums)).

Exercising a right to transfer or buy-out

M2.—(1) A member shall exercise the right to require a transfer or buy-out by making an application in writing to the Secretary of State.

(2) A member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme may exercise the right at any time before reaching age 60.

(3) Subject to paragraph (4), a member who requires all or part of the cash equivalent to be used to purchase one or more buy-out policies or to acquire rights under a personal pension scheme may exercise the right at any time before reaching age 59.

(4) A member who leaves pensionable employment less than 6 months before his 59th birthday may exercise the right at any time up to 6 months after leaving.

(5) Subject to paragraph (6), a member may withdraw an application to transfer or buy-out his rights by giving notice in writing to the Secretary of State that he no longer wishes to exercise that right.

(6) The member may not withdraw the application after the Secretary of State, in order to comply with what the member previously required, has entered into an agreement with a third party to use the member's cash equivalent in a way specified in regulation M1(2).

(7) A member who withdraws an application may make another.

Amount of member's cash equivalent

M3.—(1) Subject to paragraphs (2) and (3), the member's cash equivalent will be equal to the capitalised value of all the member's accrued rights to benefits under the scheme and any associated rights under Part I of the Pensions (Increase) Act 1971, calculated and verified as required by Chapter IV of Part IV of the Pension Schemes Act 1993 (transfer values).

(2) If the member requires the cash equivalent to be used to acquire rights under an occupational pension scheme which is not a contracted-out scheme within the meaning of Chapter I of Part III of the Pension Schemes Act 1993 or under a personal pension scheme which is not an appropriate scheme within the meaning of that Chapter and the trustees or managers of the receiving scheme are unable or unwilling to accept liability for the member's rights to guaranteed minimum pensions the cash equivalent will be reduced by an amount sufficient for the Secretary of State to meet her liability to provide guaranteed minimum pensions in respect of the member.

(3) If the cash equivalent is not to be used to acquire rights in a scheme that participates in the Public Sector Transfer Arrangements and the Secretary of State fails, without reasonable excuse, to do what is needed to carry out what the member requires within 6 months of the member's leaving pensionable employment or, if later, exercising the right, the member's cash equivalent will be increased in accordance with paragraph (4).

(4) The amount of the increase under paragraph (3) will be equal to the greater of—

- (a) interest on the cash equivalent at the same rate as that payable for the time being on judgment debts by virtue of section 17 of the Judgment Act 1838 ^{M1} (judgment debts to carry interest), calculated on a daily basis over the period between the date of the member's leaving pensionable employment or, if later, exercising the right to transfer or buy-out and the date on which the Secretary of State carries out what the member requires; and

(b) the amount (if any) by which the cash equivalent is less than what it would have been if the date of the member's leaving pensionable employment or, if later, exercising the right, had been the date on which the Secretary of State carries out what the member requires.

(5) Subject to paragraph (7), 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 N1(4) (transfers from other pension arrangements), plus the amount of the member's contributions to the scheme.

(6) Subject to paragraph (7), if a member's cash equivalent is used to acquire rights under another occupational pension scheme, any part of the cash equivalent that relates to service before 29th January 1988 will be calculated as described in the previous Regulations as applicable immediately before that date, if this would be more favourable to the member.

(7) Paragraphs (5) and (6) do not apply where the member requires the cash equivalent to be used to acquire rights under another occupational pension scheme that participates in the Public Sector Transfer Arrangements.

(8) In any case where the Secretary of State has directed, under regulation T6 (loss of rights to benefit), that part of a member's benefits under these Regulations shall be forfeited, the cash equivalent payable in respect of that member shall be reduced by the capitalised value of that part of those benefits.

Marginal Citations

M1 1 & 2 Vict. c.110. Section 17 is amended by the [Civil Procedure Acts Repeal Act 1879 \(c.59\)](#) Schedule Part 1 and by article 2 of [S.I. 1977/141](#).

Time limit for doing what member requires

M4.—(1) Subject to paragraphs (2) and (3), the Secretary of State shall do what is needed to carry out what the member requires under regulation M1 within 12 months after receiving the member's application.

(2) If the member leaves pensionable employment within 6 months before reaching age 59 and the Secretary of State receives the member's application after the member reaches age 59 but within 6 months after the member's leaving, the Secretary of State shall do what is needed to carry out what the member requires under regulation M1 (member's right to transfer or buy-out) by the date on which the member reaches age 60.

(3) If disciplinary or court proceedings are commenced against the member within 12 months after the member leaves pensionable employment and it appears to the Secretary of State that the proceedings may lead to all or part of the member's benefits being forfeited under regulation T6 (loss of rights to benefits), the Secretary of State may defer doing what is needed to carry out what the member requires until the date 3 months after the conclusion of those proceedings (including any proceedings on appeal) where that date is later than the date which would otherwise apply under paragraph (1) or (2) above.

Early leaver without pension or preserved pension

M5.—(1) Subject to paragraphs (2) and (3), this regulation applies where a member leaves pensionable employment before reaching age 60, without becoming entitled to a pension under any of regulations E1 to E5 or a preserved pension under regulation L1.

(2) In a case where a member has received a refund of contributions under regulation L2, this regulation applies only if, before exercising the right to transfer or buy-out, the member pays to the Secretary of State an amount equal to that refund of contributions (including any interest).

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(3) In a case where a member leaves pensionable employment with a pension under regulation E3 (early retirement pension on grounds of redundancy), this regulation applies only if, before exercising the right to transfer or buy-out, the member pays to the Secretary of State an amount equal to the total benefits already paid to the member under the scheme.

(4) Where this regulation applies the member will be treated, for the purposes of regulations M1 to M4, as if he had left pensionable employment with a preserved pension, except that—

- (a) a member who requires the cash equivalent to be used to buy one or more buy-out policies must exercise the right to buy-out within 12 months after leaving pensionable employment; and
- (b) a member who requires the cash equivalent to be used to acquire rights under another occupational pension scheme or under a personal pension scheme must join that other scheme within 12 months after leaving pensionable employment and exercise the right to transfer within 12 months after joining that other scheme.

(5) A member who pays an amount to the Secretary of State as described in paragraphs (2) or (3) of this regulation will be treated, for the purposes of regulation M1(6), as if the refund of contributions or, as the case may be, the benefits represented by that amount had never become payable to the member.

Transfers in respect of more than one member

M6.—(1) If two or more members leave pensionable employment, join another occupational pension scheme and exercise a right to transfer to that scheme under regulation M1 (member's right to transfer or buy-out), the Secretary of State may, after taking advice from the Government Actuary, make a single transfer payment to that scheme in respect of those members.

(2) The Secretary of State will calculate the amount of any transfer payment under this regulation after taking advice from the Government Actuary.

Waiver of transfer payment

M7. If an occupational pension scheme waives payment of any cash equivalent or transfer payment that would otherwise be payable to it under regulations M1 to M6, the payment will nevertheless be treated as made for the purposes of these Regulations.

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