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STATUTORY INSTRUMENTS

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**2008 No. 653**

The National Health Service Pension Scheme Regulations 2008

PART 2

BENEFITS FOR OFFICERS

CHAPTER 2.A

INTRODUCTION

*Pensionable service*

**2.A.2 Meaning of “pensionable service”**

(1) In this Part, references to a member’s pensionable service, are references to the aggregate of the following periods—

- (a) any period of service in respect of which the member contributes to the scheme under regulation 2.C.1 (contributions by members),
- (b) any period of absence from service which counts as pensionable service under regulation 2.A.4, and
- (c) any period of service credited to the member as pensionable service under Chapter 2.F (transfers from other pension arrangements).

This is subject to paragraph (2).

(2) A member’s pensionable service does not include—

- (a) any period of service in respect of which the Secretary of State has paid contributions to another occupational pension scheme in respect of the member,
- (b) in the case of a pensioner member or deferred member, any period taken into account—
  - (i) in determining the member’s entitlement to the pension in payment or, as the case may be, the deferred pension, or
  - (ii) in calculating the amount of that pension,but, in the case of a pensioner member or deferred member entitled to a pension under regulation 2.D.5 (partial retirement) subject to paragraph (6),
- (c) any period of service in respect of which the Secretary of State’s liability to provide benefits is discharged—
  - (i) by the payment of a contributions equivalent premium under section 55(2) of the 1993 Act,
  - (ii) under regulation 2.C.18 (repayment of contributions), or
  - (iii) by the payment of a transfer value payment on transfer out under Chapter 2.F (transfers), or

- (d) any period of service which would result in the aggregate mentioned in paragraph (1) exceeding 45 years.
- (3) A member's pensionable service must not exceed 45 years unless—
  - (a) the member gives notice in writing to the Secretary of State and the member's employing authority of an intention to remain in pensionable service beyond 45 years, and
  - (b) that notice is received by the Secretary of State and the member's employing authority—
    - (i) not earlier than three months before the member reaches 45 years pensionable service, and
    - (ii) by the end of the pay period during which the member reaches the 45 year limit.
- (4) If the notice required by paragraph (3) has been properly received and the member has pensionable service in excess of 45 years—
  - (a) benefits under this Part shall be calculated by reference to a maximum of 45 years of pensionable service, and
  - (b) the Secretary of State shall select the years by reference to which the benefits are to be calculated, selecting the years which produce the most favourable result to the member.
- (5) If, when the employment in which a person is an active member ceases, a payment is made in respect of untaken leave, for the purpose of this Part—
  - (a) the member's pensionable service is treated as continuing for a period equal to the period of leave in respect of which payment is made, and
  - (b) the payment is treated as the member's pensionable pay for that period.
- (6) In the case of a pensioner member or deferred member entitled to a pension under regulation 2.D.5 (partial retirement), paragraph (2)(b) only applies to so much of the member's pensionable service as is mentioned in regulation 2.D.5(8)(a) (the specified percentage of the pensionable service as respects which the member is an active member on the option day).
- (7) Regulation 2.A.3 makes further provision where service is in part-time employment.

### **2.A.3 Meaning of "pensionable service": part-time service**

(1) The number of days of a member's pensionable service in part-time employment for a period is calculated by multiplying the total hours of employment during the period by 7, and dividing by the number of hours of employment per week for a comparable whole-time employment.

This is subject to paragraphs (2) to (6).

- (2) If the part-time employment is for a specified number of sessions per week—
  - (a) paragraph (1) does not apply, and
  - (b) the number of days of the member's pensionable service in the part-time employment for the period is calculated by multiplying the number of sessions of employment during the period by 7, and dividing by the number of sessions per week of the length of the specified sessions for a comparable whole-time employment.

This is subject to paragraphs (3) to (6).

- (3) If during the period for which a part-time employment is held there is an alteration—
  - (a) in the case of an employment to which paragraph (1) applies, in the number of hours of employment per week for a comparable whole-time employment, or
  - (b) in the case of an employment to which paragraph (2) applies, in the number of specified sessions per week or the length of those sessions for a comparable whole-time employment,

separate calculations must be made under paragraph (1) or, as the case may be, paragraph (2) for the periods before and after the alteration.

(4) If, apart from this paragraph, a member's pensionable service in respect of the part-time employments held for a period, calculated in accordance with paragraph (1) or (2), would exceed that period, the excess is ignored.

(5) Paragraphs (1) and (2) do not apply for the purposes of regulation 2.A.2(3) (45 year limit), and for those purposes part-time employments held concurrently are treated as a single employment.

(6) Temporary additional sessions are ignored in calculating a member's pensionable service in a part-time employment.

#### **2.A.4 Pensionable service: breaks in service**

(1) Paragraph (2) applies if a member is absent from work because of—

- (a) illness or injury,
- (b) maternity leave,
- (c) adoption leave,
- (d) paternity leave, or
- (e) parental leave.

(2) The period of absence counts as pensionable service if the member contributes to the scheme under regulation 2.C.1 in respect of the period of absence.

(3) If—

- (a) a member is on leave of absence for a period not exceeding 6 months but does not fall within paragraph (1)(a) to (e), and
- (b) the member contributes to the scheme under regulation 2.C.1 by contributions made at the same intervals as those made by the member before the absence,

so much of the period of absence beginning with the first day of absence as is a period in respect of which the conditions in sub-paragraphs (a) and (b) are met counts as pensionable service.

(4) This paragraph applies if a person—

- (a) ceased to be an active member because of—
  - (i) ceasing to be employed in an employment in which the person is eligible to be such a member, or
  - (ii) exercising the option under regulation 2.B.5 (opting out of the Scheme), and
- (b) less than 12 months after the date on which the person ceased to be an active member becomes such a member again.

(5) If paragraph (4) applies, the person's pensionable service before the person ceased to be an active member and after the person became such a member again is treated as a single continuous period of pensionable service, unless paragraph (6) applies.

(6) This paragraph applies if—

- (a) the person does not become a deferred member in respect of the pensionable service before the break in which the person was an active member,
- (b) the person has received a repayment of contributions under regulation 2.C.18 in respect of that service (but see paragraph (8)), or
- (c) the person's rights under the Scheme in respect of that service have been extinguished under regulation 2.F.7 because a transfer value payment has been made in respect of them.

(7) In the case of a member who leaves pensionable service whilst the person is absent from work because of—

- (a) illness or injury,
- (b) maternity leave,
- (c) adoption leave,
- (d) paternity leave, or
- (e) parental leave,

this regulation applies as if the reference to 12 months in paragraph (4)(b) were a reference to 3 years.

(8) Paragraph (6)(b) does not apply if the person repays to the Secretary of State any contributions repaid to the person as mentioned in that paragraph, together with any interest paid to the person on those contributions, before the expiry of the period of 6 months beginning with the date on which the person becomes an active member again.

(9) For the regulations where paragraph (5) applies in respect of the service in which the person was an active member and becomes an active member again, see Chapter 2.G (re-employment and rejoining the Scheme).