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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.