
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 94

**The National Health Service Pension
Scheme (Scotland) Regulations 2015**

PART 5

Members' benefits

CHAPTER 5

Ill-health pension

Entitlement to ill-health pension

- 89.**—(1) An active member (M) is entitled to immediate payment of—
- (a) an ill-health pension at Lower Tier (a Lower Tier IHP) if the Lower Tier conditions are satisfied in relation to M;
 - (b) an ill-health pension at Upper Tier (an Upper Tier IHP) if the Upper Tier conditions are satisfied in relation to M.
- (2) The Lower Tier conditions are that—
- (a) M ^[F]is qualified for retirement benefits and] has not attained normal pension age;
 - (b) M has ceased to be employed in NHS employment;
 - (c) the Scheme Manager is satisfied that M suffers from physical or mental infirmity as a result of which M is permanently incapable of efficiently discharging the duties of M's employment;
 - (d) M's employment is terminated because of the physical or mental infirmity; and
 - (e) M claims payment of the pension.
- (3) The Upper Tier conditions are that—
- (a) the Lower Tier conditions are satisfied in relation to M; and
 - (b) the scheme manager is also satisfied that M suffers from physical or mental infirmity as a result of which M is permanently incapable of engaging in regular employment of like duration.
- (4) M is not entitled to payment of a pension under this regulation if M's NHS employment is terminated because—
- (a) M is dismissed (unless the scheme manager is satisfied that the dismissal was because of M's infirmity);
 - (b) M retires or resigns at a time when—
 - (i) M is subject to disciplinary proceedings; or
 - (ii) had been notified that such proceedings were being contemplated; or
 - (c) M otherwise retires or resigns, unless—

- (i) at the time of doing so M's employing authority has notified the scheme manager in writing that M's physical or mental infirmity is the reason for the termination; and
 - (ii) the scheme manager is satisfied that is the case.
- (5) In paragraph (3)(b), “regular employment of like duration” means—
- (a) in the case of a practitioner or non-GP provider, such employment as the scheme manager considers would involve a similar level of engagement to M's current pensionable service as a practitioner or non-GP provider;
 - (b) in any other case, where prior to ceasing NHS employment M was employed—
 - (i) on a whole-time basis, regular employment on a whole time basis;
 - (ii) on a part-time basis, regular employment on a part-time basis, regard being had to the number of hours, half days and sessions the M worked in the employment.
- (6) A pension under this regulation is payable for life: but see regulations 94 and 95.

Textual Amendments

- F1** Words in [reg. 89\(2\)\(a\)](#) inserted (31.1.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2017 \(S.S.I. 2017/433\)](#), regs. 1(1), **10**

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Pension Scheme (Scotland) Regulations 2015, Section 89.