
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 95

The National Health Service Pension Scheme (Transitional and Consequential Provisions) (Scotland) Regulations 2015

PART 2

Transitional provisions

CHAPTER 3

Membership status and breaks in service

Active member status preservation

6. Unless otherwise provided in these Regulations, a person who is an active member of the new scheme is to be treated, for the purposes of the old scheme, as though he or she continues to be an active member of the old scheme notwithstanding the operation of section 18(1) of the 2013 Act.

Qualifying service

7.—(1) In determining whether a transition member who is in pensionable service under the new scheme qualifies for retirement benefits (other than ill-health pension) under the old scheme, the member's pensionable service under the old scheme terminates when the member's pensionable service under the new scheme terminates.

(2) Unless a transition member becomes a deferred member of the new scheme, the member does not become—

- (a) a member with a preserved pension in the 1995 Section; or
- (b) a deferred member of the 2008 Section.

(3) Where a transition member with more than two years of qualifying service opts out of membership of the new scheme pursuant to regulation 15 of the 2015 Regulations, the member becomes—

- (a) a member with a preserved pension under the 1995 Section; or
- (b) a deferred member of the 2008 Section,

in relation to service in that Section.

(4) Where a transition member has re-entered pensionable service under the new scheme, that member ceases to be—

- (a) a member with a preserved pension in the 1995 Section; or
- (b) a deferred member of the 2008 Section.

(5) In determining whether a member qualifies for benefits under the old scheme, the period of the member's qualifying service under regulation 22 of the new scheme applies in place of the period calculated pursuant to regulation—

- (a) regulation C3 of the 2011 Regulations; or

- (b) regulation 2.A.5 or 3.A.5 of the 2013 Regulations.

Members on authorised unpaid leave

8. Where, on the date a person becomes eligible to join the new scheme, that person is on a leave of absence during which the person is paying contributions pursuant to regulation P3 of the 2011 Regulations or regulation 2.A.5(3) or 3.A.4(3) of the 2013 Regulations—

- (a) regulation 21 of the 2015 Regulations applies to that person; and
- (b) for the purposes of determining whether and for how long that person may continue to pay contributions under the 2015 Regulations, the contributions paid and the period of absence under the old scheme must be taken into account.

Casual staff and locums not working on eligibility date

9. Paragraph (2) applies where, on the date a person becomes eligible to join the new scheme, that person—

- (a) is—
- (i) employed on a casual basis and has ceased to pay contributions under regulation C3(5) of the 2011 Regulations or regulation 2.A.6(2) of the 2013 Regulations; or
- (ii) a locum practitioner and has ceased to pay contributions under paragraph 12 of Schedule 1 to the 2011 Regulations or regulation 3.A.5(2) of the 2013 Regulations; and
- (b) has ceased to pay those contributions because of a break which, on the date the person becomes eligible to join the new scheme, is a break not exceeding a period of three months (“a relevant break”),

(2) Regulation 22(5) and (6) of the 2015 Regulations applies as though the member’s relevant break had commenced whilst the member was an active member of the new scheme.

Disqualifying breaks in service

10.—(1) Paragraph (3) applies to a member with pensionable service in the old scheme who—

- (a) on 1st April 2015—
- (i) is on a break in NHS employment; or
- (ii) has opted out of the old scheme pursuant to—
- (aa) regulation B4 of the 2011 Regulations; or
- (bb) regulation 2.B.6 or 3.B.6 of the 2013 Regulations;
- (b) was not—
- (i) entitled to a preserved pension under regulation E12 of the 2011 Regulations; or
- (ii) a deferred member of the 2008 Section in respect of that service, when that service ceased; and
- (c) subsequently becomes an active member of the new scheme.

(2) Paragraph (4) applies to a member with pensionable service in the old scheme who—

- (a) subsequently becomes an active member of the new scheme;
- (b) has a break in pensionable service in the new scheme commencing on or after 2nd April 2015; and

- (c) is not qualified for retirement benefits pursuant to regulation 71 of the 2015 Regulations on ceasing pensionable service in the new scheme.
- (3) Where a member's break between pensionable service in the old scheme and pensionable service in the new scheme is less than one year—
 - (a) the contributions in respect of old scheme service are not refundable to the member under—
 - (i) regulation E15 of the 2011 Regulations; or
 - (ii) regulation 2.C.18 or 3.C.16 of the 2013 Regulations; and
 - (b) if a refund under those regulations was paid in respect of the member's old scheme service during the break, the member may repay that refund (including any interest on those contributions which was paid to the member) under—
 - (i) regulation L1(5) of the 2011 Regulations; or
 - (ii) regulation 2.A.5(9) or 3.A.4(9) of the 2013 Regulations, within six months of joining the new scheme.
- (4) Where a member's break in pensionable service in the new scheme is five years or less—
 - (a) the contributions in respect of old scheme service are not repayable to the member under—
 - (i) regulation L2 of the 2011 Regulations; or
 - (ii) regulation 2.C.18 or 3.C.16 of the 2013 Regulations; and
 - (b) if a refund under those regulations was paid in respect of the member's old scheme service during the break, the member may repay that refund (including any interest on those contributions which was paid to the member) under—
 - (i) regulation L1(5) of the 2011 Regulations; or
 - (ii) regulation 2.A.5(9) or 3.A.4(9) of the 2013 Regulations, within six months of joining the new scheme.