
STATUTORY INSTRUMENTS

1995 No. 365

**The National Health Service Superannuation
Scheme (Scotland) Regulations 1995**

PART K

CONTRACTING OUT AND GUARANTEED MINIMUM PENSIONS

Contracting-out requirements to be overriding

K1. The scheme will be administered in conformity with the contracting-out requirements and regulations K2 to K7 will override any inconsistent provisions of these Regulations except regulation T7 (commutation of trivial pensions).

Guaranteed minimum pensions

K2.—(1) This regulation applies where the member has a guaranteed minimum, in relation to the pension provided for the member under the scheme, in accordance with section 14 of the Pension Schemes Act 1993⁽¹⁾ (earner's guaranteed minimum).

(2) The weekly rate of the member's pension from State pension age will not be less than the member's guaranteed minimum, except that—

- (a) payment may at the discretion of the Secretary of State be postponed for up to 5 years if the member remains in NHS employment, or for any period if the postponement continues or occurs more than 5 years after State pension age if the member consents; in which case the member's guaranteed minimum pension will be increased as described in regulation K3 (late retirement);
- (b) payment may be reduced or suspended under regulation S1 to S3 (members who return to NHS employment after becoming entitled to receive a pension) if the member returns to NHS employment; in which case the member's guaranteed minimum pension will be increased as described in regulation K3 (late retirement); and
- (c) payment may be reduced or suspended where the Secretary of State has made a direction under regulation T6 (loss of rights to benefit) or where he has discharged his liability by making a payment under regulation T7 or under Part M (transfers or buy-outs).

(3) If the member is a man and dies leaving a widow, the weekly rate of the widow's pension will not be less than half the member's guaranteed minimum for any period such as is mentioned in section 17(5) of the Pension Schemes Act 1993.

(4) If the member is a woman and dies leaving a widower, the weekly rate of the widower's pension will not be less than half the part of the member's guaranteed minimum that is attributable to earnings for the tax year 1988-89 and subsequent tax years for any period such as is mentioned in section 17(6) of the Pension Schemes Act 1993.

(5) The part of any guaranteed minimum pension that is attributable to earnings for the tax year 1988-89 and subsequent tax years will increase in each year by the percentage specified in any order made by the Secretary of State under section 109 of the Pension Schemes Act 1993 (annual increases of guaranteed minimum pensions).

(6) If a member becomes entitled to a refund of contributions under regulation E9 on leaving pensionable employment or exercises a right to require a transfer or buy-out in accordance with regulation M1 but (in either case) remains entitled to a guaranteed minimum pension, no benefit will be payable on the member's death, except for a widow's or widower's pension of the amount described in paragraph (3) or (4) as the case may be.

(7) Where paragraph (3) of regulation K7 applies, a guaranteed minimum pension of the amount described in paragraph (4) will be payable.

Late retirement

K3. If a member's pension is postponed for more than 7 weeks after state pension age, or is reduced or suspended after it becomes payable, the member's guaranteed minimum pension as increased under section 109 of the Pension Schemes Act 1993 (annual increases of guaranteed minimum pensions) will be increased by 1/7th per cent for each complete 7 days of postponement.

Early leavers

K4.—(1) Subject to paragraph (2), if a member leaves contracted-out employment under the scheme before state pension age, the member's guaranteed minimum pension at the date of leaving will be increased when the member reaches state pension age or dies (if earlier) by the appropriate percentage specified in relation to each relevant year in the last order under section 148 of the Social Security Administration Act 1992(2) (revaluation of earnings factors) to come into force before the tax year in which the member reaches state pension age or dies (if earlier).

(2) If a guaranteed minimum pension is to be transferred to another scheme, or bought out by a buy-out policy, under which early leavers' guaranteed minimum pensions are increased by a method other than that described in paragraph (1), the Secretary of State may adopt that other method for the guaranteed minimum pension in question.

(3) If a member returns to contracted-out employment under the scheme within six months after leaving, the two periods of contracted-out employment will be treated as continuous, unless the first period is covered by—

- (a) a state scheme premium under Chapter III of Part III of Pension Schemes Act 1993, or
- (b) a transfer to another occupational pension scheme or to a personal pension scheme, or
- (c) any guaranteed minimum pensions being bought out under a buy-out policy.

Guaranteed minimum pensions transferred to the scheme

K5.—(1) Where a guaranteed minimum pension has been transferred to the scheme and the member subsequently leaves contracted-out employment under the scheme, the guaranteed minimum pension transferred to the scheme will be increased for each complete tax year after the date on which the member left contracted-out employment under the scheme in which the transferred guaranteed minimum pension accrued, until the member reaches state pension age or dies (if earlier).

(2) If the transfer is from another occupational pension scheme, the guaranteed minimum pension will be increased by the appropriate percentage specified in relation to each relevant year in the last order under section 148 of the Social Security Administration Act 1992 (revaluation of earnings

(2) 1992 c. 5; section 148 was amended by the Pension Schemes Act 1993, Schedule 8, paragraph 27.

factors) to come into force before the tax year in which the member reaches state pension age or dies (if earlier).

(3) If the transfer is from a buy-out policy, the guaranteed minimum pension will be increased by the same method as was in use under the policy or by the appropriate percentage specified in relation to each relevant year in the last order under section 148 of the Social Security Administration Act 1992 to come into force before the tax year in which the member reaches state pension age or dies (if earlier).

Protected rights transferred to the scheme

K6.—(1) Where protected rights have been transferred to the scheme from another occupational pension scheme or a personal pension scheme, the protected rights will be used to provide guaranteed minimum pensions equal to those to which the member and the member's spouse would have been treated as entitled under the transferring scheme had the transfer not been made.

(2) Any guaranteed minimum pensions to which a member and his spouse are entitled by virtue of paragraph (1) will be revalued as described in regulation K5(2) (transferred guaranteed minimum pensions).

State scheme premiums

K7.—(1) Subject to paragraph (3) the Secretary of State may discharge his liability to provide guaranteed minimum pensions by paying a state scheme premium under Chapter III of Part III of the Pension Schemes Act 1993.

(2) Where a member, or a member's widow or widower, is entitled to a pension under the scheme in respect of a period for which a contributions equivalent premium has been paid under section 55(2) of the Pension Schemes Act 1993 the pension will be reduced by the amount of the guaranteed minimum pension that would have been payable under the scheme to the member, widow or widower, as the case may be, if the contributions equivalent premium had not been paid.

(3) Notwithstanding paragraph (1) the Secretary of State may not discharge any liability under paragraph (1) when a female member dies with less than 2 years' service.