
STATUTORY INSTRUMENTS

1995 No. 365

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

PART E

BENEFITS FOR MEMBERS

Early retirement pension (ill health)

E2.—(1) A member who retires from pensionable employment because of physical or mental infirmity that makes him permanently incapable of efficiently discharging the duties of that employment shall be entitled to receive an immediate pension under this regulation if he has at least 2 years' qualifying service or qualifies for a pension under regulation E1 (normal retirement pension).

(2) Subject to paragraph (3), the pension under this regulation will be calculated as described in regulation E1 (normal retirement pension).

(3) If the member retires from pensionable employment before reaching age 65 and satisfies the requirements of any of paragraphs (4) to (6), the pensionable service upon which the pension is based, excluding any additional service purchased under regulation Q1 or additional service under regulation R3(5), will be increased as described in whichever of paragraphs (4) to (6) is applicable or, if both of paragraphs (5) and (6) apply, as described in whichever of those paragraphs is more favourable to the member.

(4) If the member has at least 5 years' qualifying service but not more than 10 years' pensionable service, the pension will be based on the shorter of—

- (a) twice the member's pensionable service; and
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until age 65.

(5) If the member has more than 10 but not more than 20 years' pensionable service, the pension will be based on the shorter of—

- (a) the pensionable service the member could have completed if he had stayed in pensionable employment until age 65; and
- (b) 20 years' pensionable service.

(6) If the member has more than 10 years' pensionable service and has not reached age 60, the pension will be based on the shortest of—

- (a) the member's actual pensionable service increased by a period of 6 years and 243 days;
- (b) the pensionable service the member could have completed if he had stayed in pensionable employment until age 60; and
- (c) 40 years' pensionable service.

(7) Subject to paragraph (8), where a member becomes entitled to a pension under paragraph (1), the Secretary of State may discharge his liability for that pension by the payment of a lump sum.

(8) A lump sum payment under paragraph (7) may be made only if the Secretary of State is satisfied that it is appropriate in all the circumstances having regard to the life expectancy of the member.

(9) For the purpose of paragraph (8), the Secretary of State may require whatever medical evidence that he considers necessary.

(10) The amount of the lump sum payable under paragraph (7) will be equal to (a) 5 times the difference between the yearly rate of the member's pension calculated in accordance with this regulation and the annual rate of the member's guaranteed minimum pension or, if lower, (b) twice the member's final year's pensionable pay less the member's lump sum on retirement payable under regulation E7 (which shall not be subject to any reduction under regulation E8); and the amount of the lump sum shall be payable in addition to the retirement lump sum payable under regulation E7 (which shall not be subject to any reduction under regulation E8).

(11) Where a member to whom a pension is payable under this regulation returns to NHS employment, that employment may be pensionable under the scheme provided that the member is under the age of 50 at the date on which he returns to NHS employment.

(12) Where further employment becomes pensionable by virtue of paragraph (11), the subsequent period of pensionable employment shall be treated separately from all other pensionable employment for the purposes of calculating the member's benefits.