
STATUTORY INSTRUMENTS

2008 No. 653

The National Health Service Pension Scheme Regulations 2008

PART 2

BENEFITS FOR OFFICERS

CHAPTER 2.D

MEMBERS' RETIREMENT BENEFITS

Entitlement to pensions

2.D.12 Option to have periods of service treated separately where pay is reduced

- (1) This regulation applies if—
 - (a) the reckonable pay of an active member who has at least 2 years of qualifying service is reduced, and
 - (b) the reduction occurs in circumstances specified in paragraph (2).
- (2) The circumstances are that—
 - (a) the member is transferred from one employment to another,
 - (b) the member leaves one employment and takes up another in circumstances approved by the Secretary of State for the purposes of this regulation, or
 - (c) the member's duties change while the member continues in the same employment, otherwise than at the member's request or as a result of something done by the member.
- (3) The member may opt to be treated for the purposes of the Scheme in accordance with this regulation as follows—
 - (a) the member is treated as a deferred member of the Scheme as respects the earlier service, and
 - (b) if the member is an active member of the Scheme in the later service, for the purposes of this Chapter the member is treated as respects the later service as if the member became an active member for the first time on the day that service began.
- (4) But nothing in paragraph (3) prevents the member's earlier service and later service counting as a single continuous period for the purposes of regulation 2.A.5 (qualifying service).
- (5) If the member's pensionable service is to be increased under regulation 2.D.8(5)—
 - (a) the member's pensionable service will count as a continuous period for the purposes of calculating to what extent the pensionable service on which the pension is based should be increased, and
 - (b) the increase will apply only in respect of the pension attributable to the later service.
- (6) If a member has duly exercised the option under this regulation, the member is treated as mentioned in paragraph (3) (but subject to paragraph (4) and (5)) unless paragraph (7) applies.

(7) This paragraph applies if—

- (a) at the time that the member first becomes entitled to a pension under the Scheme in respect of the earlier service or the later service, or
- (b) if it is earlier, at the time of the member’s death,

in the opinion of the Secretary of State the benefits payable to or in respect of the member would be more valuable if the option and any other options exercised by the member under this regulation were disregarded.

(8) The option under this regulation may only be exercised by giving notice in writing to the Secretary of State in such form as the Secretary of State requires before the end of the period of 3 months beginning with the first day of the later service.

(9) In this regulation—

“the earlier service” means—

- (a) in the case of a change of circumstances within paragraph (2)(a) or (b), the service in the employment that the member has left, and
- (b) in the case of a change of circumstances within paragraph (2)(c), the service in the employment before the change in the member’s duties took effect, and

“the later service” means—

- (a) in the case of a change of circumstances within paragraph (2)(a) or (b), the service in the employment that the member has begun, and
- (b) in the case of a change of circumstances within paragraph (2)(c), the service in the employment after the change in the member’s duties took effect.