
STATUTORY INSTRUMENTS

2015 No. 94

The National Health Service Pension Scheme Regulations 2015

PART 5

Members' benefits

CHAPTER 9

Contracting out obligations

Guaranteed minimum pension etc.

110.—(1) If a member (M) has a guaranteed minimum under section 14 of the 1993 Act ^{M1} in relation to benefits under this scheme, nothing in these Regulations—

- (a) permits or requires anything that would cause requirements made by or under that Act in relation to M and M's rights under this scheme not to be met in the case of M; or
 - (b) prevents anything from being done which is necessary or expedient for the purposes of meeting such requirements in the case of M.
- (2) Paragraph (3) applies if apart from this regulation—
- (a) no pension would be payable to M under this scheme; or
 - (b) the weekly rate of the pensions payable would be less than the guaranteed minimum.
- (3) Where this paragraph applies, as the case may be—
- (a) a pension at a weekly rate equal to the guaranteed minimum is payable to M for life from the date on which M reaches State pension age; or
 - (b) pensions, the aggregate weekly rate of which is equal to the guaranteed minimum, are so payable.
- (4) If—
- (a) on reaching State pension age M is still in employment (whether or not it is scheme employment); and
 - (b) if it is not scheme employment, M consents to a postponement of M's entitlement under paragraph (3),

paragraph (3) does not apply until M leaves employment.

(5) If M continues in employment for a further 5 years after reaching State pension age and does not then leave employment, M is entitled from the end of that period to so much of the member's pension under this Part as equals M's guaranteed minimum (or, as the case may be, to so much of M's pensions under this Part as together have a weekly rate equal to M's guaranteed minimum), unless M consents to a further postponement of that entitlement.

(6) If paragraph (4) or (5) applies, the amount of the guaranteed minimum to which M is entitled under this regulation is increased in accordance with section 15 of the 1993 Act.

- (7) If—

- (a) before State pension age M becomes entitled to the immediate payment of a pension; and
- (b) M has a guaranteed minimum under section 14 of the 1993 Act in relation to the whole or part of the pension,

the weekly rate of the pension, so far as attributable to that service, must not be less than that guaranteed minimum, multiplied by such factor as is indicated in tables provided by the scheme actuary for a person of M's age and sex at the date on which the pension becomes payable.

(8) This paragraph applies if a person has ceased to be in employment that is contracted-out by reference to this scheme, and either—

- (a) all the person's rights to benefits under this scheme, except the person's rights in respect of the person's guaranteed minimum or [^{F1}the person's section 9(2B) rights] (“the person's contracting-out rights”), have been transferred under Part 7 (transfers); or
- (b) the person has no rights to benefits under this scheme apart from the person's contracting-out rights.

(9) If paragraph (8) applies—

- (a) from the date on which the person reaches State pension age the person is entitled to a pension payable for life at a weekly rate equal to his guaranteed minimum, if any; and
- (b) from the date on which the person reaches pension age the person is entitled to a pension in respect of [^{F2}the person's section 9(2B) rights],

but a person falling within paragraph (8) is not to be regarded as a pensioner for the purposes of Part 6 (survivor benefits).

(10) Paragraphs (2) to (9) do not apply to—

- (a) a pension that is forfeited—
 - (i) as a result of a conviction for treason; or
 - (ii) in a case where an offence within paragraph 12(2)(b) of Schedule 3 ^{F3}... is committed;
- (b) a pension that is commuted under regulation 109 (option for members in serious ill- health to exchange whole pension for lump sum); or
- (c) a pension that is commuted under paragraph 6 of Schedule 3 (commutation of small pensions) where the conditions in [^{F4}regulation 25 of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015] are met,

but if any other provision of this scheme is inconsistent with this regulation, this regulation prevails.

(11) In this regulation—

- (a) “scheme employment”, in relation to a member, means employment in the employment by virtue of which the member is eligible for membership of this scheme; and
- (b) references to the amount of a pension are to its amount—
 - (i) disregarding any additional pension;
 - (ii) after the subtraction of any amount exchanged under regulation 77 (option to exchange part of pension for lump sum); and
 - (iii) before the subtraction of any amount allocated under regulation 51 (election to allocate pension).

Textual Amendments

- F1** Words in reg. 110(8)(a) substituted (6.4.2019) by [The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits \(Amendment\) Regulations 2019 \(S.I. 2019/418\)](#), regs. 1(3), **85(2)**

- F2** Words in reg. 110(9)(b) substituted (6.4.2019) by The National Health Service Pension Schemes, Additional Voluntary Contributions and Injury Benefits (Amendment) Regulations 2019 (S.I. 2019/418), regs. 1(3), **85(3)**
- F3** Words in reg. 110(10)(a)(ii) omitted (20.12.2023) by virtue of The National Security Act 2023 (Consequential Amendments of Subordinate Legislation) Regulations 2023 (S.I. 2023/1267), reg. 1(2), **Sch. para. 47(3)**
- F4** Words in reg. 110(10)(c) substituted (6.4.2016) by The National Health Service Pension Scheme, Injury Benefits and Additional Voluntary Contributions (Amendment) Regulations 2016 (S.I. 2016/245), regs. 1(3), **68** (with reg. 105)

Marginal Citations

- M1** Section 14 has been amended by sections 151 and 177 of, and paragraphs 27(a) and (b) of Schedule 5 and Part 3 of Schedule 7 to, the [Pensions Act 1995 \(c.26\)](#), **section 1(1)** of, and paragraph 38(a) to (c) of Schedule 1 to, the [Social Security Contributions \(Transfer of Functions, etc\) Act 1999 \(c.2\)](#), **section 456** of, and paragraphs 1 and 22(1) and (3) of Schedule 11 to, the [Proceeds of Crime Act 2002 \(c.29\)](#), and is prospectively amended by section 24(1) of, and paragraphs 1 and 15(1) to (3) of Schedule 13 to, the [Pensions Act 2014 \(c.19\)](#).

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Pension Scheme Regulations 2015, CHAPTER 9.