

## NHS Pensions - Scheme Protection

### What are Preserved Rights?

Preserved Rights are the pension benefits that members who are not entitled to Full Protection have built up in the 1995 or 2008 Sections of the 1995/2008 NHS Pension Scheme before moving to the new 2015 Scheme. At retirement, these benefits will be treated separately and calculated in accordance with the rules of the 1995 and 2008 Sections, as appropriate. Provided you have not had a break in Scheme membership of five or more years that ended on or after 1 April 2015, your benefits will be calculated on your final salary at or near retirement.

The following examples illustrate how this works:

(1) Danny joined the 1995/2008 Scheme in 2005, so he was in the 1995 Section for 10 years before moving to the 2015 Scheme. He has no breaks in his membership of five or more years and retires at age 60 in 2030.

Danny's Preserved Rights for benefits for the period 2005 to 2015 are calculated in accordance with the rules of the 1995 Section and based on his 'Final Year's Pensionable Pay' as at his retirement in 2030 (pensionable pay in the final twelve months or in either of the two preceding years if higher).

Danny's benefits for the period 2015 to 2030 are calculated in accordance with the rules of the 2015 Scheme.

(2) Alexandra joined the 1995/2008 Scheme in 2008, so she was in the 2008 Section for seven years before moving to the 2015 Scheme. She has no breaks in her membership of five or more years and retires at age 65 in 2035.

Alexandra's Preserved Rights for benefits for the period 2008 to 2015 are calculated in accordance with the rules of the 2008 Section and based on her 'Reckonable Pay' as at her retirement in 2035 (the average of the best consecutive three years pensionable pay out of the final ten years prior to retirement).

Alexandra's benefits for the period 2015 to 2035 are calculated in accordance with the rules of the 2015 Scheme.

## **What is Full Protection?**

Full Protection is not being compelled to move to the 2015 Scheme at any point and instead continuing to remain in your existing section of the 1995/2008 Scheme.

## **How is Tapered Protection different to Full Protection?**

Tapered Protection means you will join the 2015 Scheme but from a date later than 1 April 2015, determined by your age in years and months as at 1 April 2012.

## **How is the tapered Protection period calculated?**

Tapered Protection is based on how many months beyond 10 years you were away from your Normal Pension Age as at **1 April 2012**. For each month beyond 10 years, the tapered protection end date of 1 April 2022 is reduced by two months. For example a member who was 18 months beyond 10 years away from their Normal Pension Age as at **1 April 2012**, would have the tapered protection end date of 1 April 2022 reduced by 36 months (18 months x 2).

Please use the Tapered Protection Calculator to find out the date you will join the 2015 Scheme.

## **What if I meet the age requirements but was not in active membership on both 31 March 2012 and 31 March 2015?**

You will still be eligible for Scheme Protection provided you have membership of the 1995 Section or 2008 Section prior to 1 April 2012 and either:

- return to membership of the appropriate Section before 31 March 2015 without a break of five or more years, and have not transferred your previous pension rights to another pension scheme, and be in active membership on 31 March 2015
- or**
- return to membership of the appropriate Section on or after 1 April 2015 without a break of five or more years and have not transferred your previous pension rights to another pension scheme.

## **What if I joined the NHS Pensions Scheme between 1 April and 31 March 2015?**

If you joined the NHS Pension Scheme between 1 April 2012 and 31 March 2015 then you will only qualify for either Full Protection or Tapered Protection if you were:

- not more than 13 years and five months away from age 65 as at 1 April 2012
- were previously an active member of a qualifying public sector scheme in which you would have qualified for Protection had you remained in that scheme
- did not have a break of pensionable membership of more than five years between leaving that scheme and commencing in the NHS

- were not receiving a pension from that scheme on the day you commenced pensionable membership in the NHS.

If you don't meet all these criteria you will join the 2015 Scheme.

The qualifying UK public service pension schemes are:

- the NHS Pension Scheme (this includes NHS Scotland and NHS Northern Ireland)
- the Principal Civil Service pension scheme (not Nuvos)
- the Local Government pension scheme
- the Teachers' pension scheme
- the Armed Forces pension scheme
- the Police Forces pension scheme
- the Fire and Rescue Workers pension scheme
- the Judiciary pension scheme.

### **What is the Normal Pension Age in the 1995 section?**

The Normal Pension Age in the 1995 Section is age 60 for the vast majority of members. There are some exceptions. Members with Special Class or Mental Health Officer status, who satisfy certain criteria, may have a Normal Pension Age earlier than 60. You can find out more about the Normal Pension Age for members with Special Class or Mental Health Officer on our website. You can also read about how the Protection arrangements may apply to members with Special Class or Mental Health Officer Status (including members not in active Scheme membership on 1 April 2012) on our website.

### **What is the Normal Pension Age in the 2008 Section?**

Age 65 for everyone.

### **Can Protection status be lost?**

Yes you will lose Protection if you leave NHS employment or the Scheme before or on or after 2 April 2012 and do not rejoin within five years.

### **What if I have had a break in membership of more than five years that ended on or after 1 April 2015?**

Your Preserved Rights benefits will still be calculated in accordance with the rules of the 1995/2008 Sections (as appropriate) but calculated on your salary at or near to your last day of membership before the break began. The value of your Preserved Rights benefits will be maintained by being increased to take account of inflation when they are paid. We call this 'Pensions Increase'.

## **Can I opt out of Protection?**

Members of the 1995 Section entitled to Full Protection cannot opt out of it. Members of the 2008 Section eligible for Protection were given a one off option, known as 'Option to give up Protection', to opt out of the Protection arrangements and transfer to the 2015 Scheme. This is because it is possible that, if these members did not receive pay increases before retirement, the higher build up rate in the 2015 Scheme could have delivered a bigger pension than the 2008 Section. This exercise has now closed.

## **I am due to move to the 2015 Scheme. What will happen to the pension benefits I have already built up?**

The benefits you have built up prior to moving to the 2015 Scheme will remain in the 1995 or 2008 Section as appropriate. At retirement these benefits will be treated separately and calculated in accordance with the rules of the 1995 or 2008 Section.

## **When can I claim my 1995/2008 Scheme benefits and what effect does this have on continuing to build benefits in the 2015 Scheme?**

The benefits you have built up before moving to the 2015 Scheme can be taken unreduced at your Normal Pension Age in the 1995/2008 Scheme or taken on an earlier date (on or after reaching minimum pension age) with a reduction for early payment. You will need to end your contract of employment, or contract for services if you are a Practitioner, and take a 24 hour break. This is unless you have had a break of more than five years ending after you join the 2015 Scheme (see above).

If your benefits were in the 1995 Section, you cannot undertake NHS work for more than 16 hours per week in the following month. In addition you will not be able to build up further pension rights in the 2015 Scheme (unless you incurred a single break of more than five years after joining the 2015 Scheme).

If your benefits were in the 2008 Section, you can build up further pension rights in the 2015 Scheme as long as a 24 hour break is taken before returning to NHS employment (unless you incurred a single break of more than five years after joining the 2015 Scheme).

## **How will my benefits be calculated?**

Provided you have not had a continuous break in NHS pensionable employment of five years or more ending after you join the 2015 Scheme, the 1995/2008 Scheme benefits will be based on your final salary at or near retirement. This is known as 'final salary linking'. The final salary is the best of the last three years in the 1995 Section or the average of the best three consecutive years out of the last ten in the 2008 Section.

## **How will my benefits be calculated if I have had a break of more than five years ending after I join the 2015 Scheme?**

If you have a break in NHS pensionable employment of more than five years ending after you join the 2015 Scheme, the 1995/2008 Scheme benefits will be calculated on your final salary at or near to when the break began. Pensions Increase will be added when the benefits are brought into payment to bring their value up to date. In this circumstance only it is not necessary to end your contract or employment, or contract for services if you are a Practitioner, and a 24 hour break is not required when claiming these benefits.

## **What are my options at retirement?**

You can take your 2015 benefits at your choice of:

- the same time as your 1995/2008 Scheme benefits with a reduction for early payment; or
- at your Normal Pension Age in the 2015 Scheme, paid without reduction; or
- on any date between the above with a reduction for early payment if appropriate; or
- after your Normal Pension Age with the addition of a late retirement factor.

You may if you wish take your 2015 Scheme benefits, return to work and start building a new pension provided you are under age 75 and have not claimed 1995 Section benefits.

## **Do I have to claim my 2015 Scheme benefits at the same time as claiming Preserved Rights?**

Not if you do not want to. It is important to remember that if you claim 2015 Scheme benefits before reaching the Normal Pension Age in that Scheme, those benefits would be reduced to take account of being paid early.

## **Can I carry on building pension rights in the 2015 Scheme after claiming my Preserved Rights benefits?**

This depends on which section of NHS Pension Scheme your Preserved Rights were in and whether you have had a single break in pensionable employment of more than five years after 1 April 2015. If it was the 1995 Section then you cannot build any further pension rights within the NHS Scheme, unless you have had a single break in pensionable employment of more than five years after 1 April 2015. In such circumstances it may be possible to build up further pension rights in the 2015 Scheme.

If your Preserved Rights were in the 2008 Section then you can continue to build further pension rights in the 2015 Scheme if you return to NHS work after taking the 24 hour break. Unless you have had a single break in pensionable employment of more than five years after 1 April 2015. In such circumstances a 24 hour break would not be required.

**I have bought or I am buying Added Years or a Bigger Survivors pension in the 1995 Section. What will happen to those?**

If you have already bought or are buying Added Years or an Unreduced Lump Sum or Bigger Survivors pension, by payment of regular additional contributions, and you move to the 2015 Scheme then you can continue to make the additional contributions up to the chosen contract end date or up to your last day in the 2015 Scheme if earlier.

You will be able to claim the value of the Added Years benefits from the payable date in the contract, without the need to claim all your 1995 Section benefits and without the need to formally retire, so no 24 hour break is needed. You will also be able to continue to build up benefits in the 2015 Scheme.

**I have bought or I am buying Additional Pension (AP) in the 1995/2008 Scheme. What will happen to that?**

If you have already bought or are buying Additional Pension by payment of regular additional contributions and you move to the 2015 Scheme you can continue to make the additional contributions up to the chosen contract end date or up to your last day in the 2015 Scheme if earlier.

If the Additional Pension is in the 1995 Section **only** you will be able to claim the value of the Additional Pension benefits from the payable date in the contract, without the need to claim all your 1995 Section benefits and without the need to formally retire, so no 24 hour break is needed. You will also be able to continue to build up benefits in the 2015 Scheme.

If the Additional Pension is in the 2008 Section you will only be able to access the Additional Pension element when you claim your 2008 Section benefits.

**I have been in my previous NHS scheme for less than two years before moving to the 2015 Scheme. Will I have to have my previous contributions refunded?**

No. Your period of previous membership will continue to be classed as active for as long as you are an active member of the 2015 Scheme. This will avoid the need for you to have to take a refund of contributions and maintain the prospect of a pension being paid under the previous scheme rules, when you retire.

**I have an application for consideration of ill health retirement outstanding. Will I still move to the 2015 Scheme?**

No. You will remain in your current Section of the 1995/2008 Scheme until your application is decided or you have exhausted all appeal avenues if the application was unsuccessful.

## **If after I move to the 2015 Scheme I qualify for ill health retirement how will my benefits be calculated?**

This will depend on the tier of ill health pension you are entitled to and whether you have maintained the final salary link (this means you have not had a single break in pensionable employment of five or more years).

For example:

For a **tier 1** award – the value of your benefits built up in the previous Scheme is calculated by reference to your pensionable pay at or near retirement **plus** the total value of pension benefits built up in the 2015 Scheme. Both amounts would be unreduced for early payment.

For a **tier 2** award – the value of your benefits built up in the previous Scheme is calculated by reference to your pensionable pay at or near retirement **plus** the total value of pension benefits built up in the 2015 Scheme **plus** the 'tier 2 addition' which is a pro rata increase to your 2015 Scheme benefits only based on 50% of your prospective membership up to your Normal Pension Age. More information about this will be provided on our website in due course.

## **Do I need to make fresh death benefit, partner etc. nominations in relation to my 2015 Scheme benefits?**

No. Any election or notice you have given about your 1995/2008 Scheme entitlement will automatically apply to your 2015 Scheme benefits. Similarly if you make any new elections in the 2015 Scheme these will automatically also apply to your 1995/2008 Scheme benefits.

## **What death benefits are payable on the death of an active 2015 Scheme member?**

### **1. Lump sum on death**

A lump sum on death is payable and is calculated using relevant earnings in the 2015 Scheme **only** rather than in accordance with the relevant 1995 or 2008 Section regulations. This means that the lump sum is:

The higher of:

- 2 x the relevant earnings in the last 12 months of pensionable service (this could be extended after the date of death if there is entitlement to untaken annual leave); or
- 2 x the revalued pensionable earnings for the Scheme year, up to 10 years earlier, with the highest revalued pensionable earnings.

It is important to note that relevant earnings in the 1995/2008 Scheme are excluded in the calculation of the lump sum.

A member who dies with less than 365 days membership in the 2015 Scheme will have their relevant earnings in the 2015 Scheme uprated to 365 days using the formula:

$$\frac{\text{Relevant earnings in the 2015 Scheme} \times 365}{\text{Number of days pensionable service in the 2015 Scheme}}$$

The lump sum must be claimed and paid within two years of the date upon which the Scheme Administrator was first notified of the member's death. After two years the lump sum will become an unauthorised payment which is not a permitted payment under the 2015 Scheme.

## **2. Initial adult dependant's pension and children's pension**

For adult dependant and children's pensions, the initial rate is dependent on the member's employment on the date of death and is paid at the annual rate of the member's pensionable pay in the 2015 Scheme at the date of death.

Where the member was:

- Not in a practitioner or non GP provider employment – based on the rate of the member's actual annual rate at the date of death, not the last 365 days pensionable pay.
- The figure required is the pay that the member would receive if they worked for 365 days on the salary which was current at the date of death. It should not be the whole time equivalent rate.
- In a practitioner or non GP provider employment – based on the member's pensionable earnings during the last complete quarter at the time of death.
- If the Officer or Practice Staff member is absent on reduced or nil pay at the date of death the initial survivors pension payable is still based on:
  1. The pensionable pay the member would have received had they been on full pay on the day they died i.e. the rate is not affected if they are absent on sick leave.
  2. This would include any increments or pay awards effective after any sick leave.

## **3. Continuing adult dependant's pension and children's pensions**

The rate of continuing adult dependant and children's pensions are calculated with reference to the relevant proportion of an amount payable as if a Tier 2 ill health pension

had become payable to the member. The 2015 Scheme Tier 2 addition is used and applied to the 2015 Scheme service only.

In respect of the 1995/2008 Scheme service, an annual rate of pension is paid that is equal to the relevant proportion of the pension that would have been payable to the member if they had retired with a normal age retirement pension on the date of death.

**Provisions exist in the 1995/2008 Section for pensionable pay to be protected in certain circumstances. Will this still apply?**

Yes. If you still qualify for final salary linking and your pensionable pay reduces through no fault of your own then you can apply for the higher rate of pay to be protected for pension purposes. You must do this within three months of your pay reducing. When you claim them, your benefits to the date of reduction will be based on this rate of pay, or your rate of pay at retirement (whichever is the higher amount).

In addition, if your previous benefits are in the 1995 Section only you may be able to apply for Voluntary Protection of Pay if you have reached your minimum pension age and you step down to a job where your pay reduces by at least 10%. You can read more about this on our website.

**I am a Practitioner member and currently have certain 'flexibilities' on retirement. What happens to these?**

There are no Practitioner flexibilities in the 2015 Scheme. However Practitioners who have previous pension rights in the 1995/2008 Scheme will have their Officer flexibility rights protected up to the point of joining the 2015 Scheme or the date they became a Practitioner, if that is later.

A Flexibility Value Earnings Credit is created for Officer membership other than that which **must** convert to Practitioner membership under the 1995/2008 Scheme regulations. The Flexibility Value Earnings Credit is uprated annually by a factor up to the last day of pensionable service in the 2015 Scheme. Flexibility Value Earnings Credit factors and further information about this will be confirmed in due course.

**I was a Mental Health Officer in the 1995 Section before moving to the 2015 Scheme. How does this affect me?**

There are some other provisions for you to be aware of which are explained on our website.

**I have HMRC Enhanced Protection or Fixed Protection 2012 / 2014. Does moving to the 2015 Scheme affect my protection?**

Yes. You can read the factsheet about the effect of the 2015 Scheme on Enhanced and Fixed Protection on our website.

## Is there any further information available?

It may help you understand the information in this factsheet if you also watch our YouTube [‘People with benefits in both the 1995/2008 Scheme and the 2015 Scheme’](#). There is also supporting information in the 2015 Member Guide.

**Please note:** If you were not a member of the 1995/2008 Scheme on 1 April 2012 you can still qualify for Full or Tapered Protection if on the date you returned to pensionable NHS employment you had **not** had a break of five or more years and you satisfied the relevant age criteria as at 1 April 2012.

If you were a member of another public sector pension scheme on 1 April 2012 and would have been entitled to Full or Tapered Protection under that scheme’s rules had you remained in that scheme **and** you join the NHS Scheme without a break of five or more years then you may be eligible to join the 2008 Section as either a Protected or Tapered Protected member.