

NHS Pensions

Special Class – Guide for employers



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Background

History of Special Class

Special Class (SC) status is a legacy provision within the 1995 section of the NHS Pension scheme and is primarily available to eligible members of staff who are engaged in pensionable employment as a nurse, physiotherapist, midwife or health visitor. SC status allowed the member to retire at age 55 without a reduction to their benefits.

It is a continuation of the arrangements which existed under the Local Government Act 1937 before the start of the NHS in 1948.

It was given in recognition of the arduous nature of the duties undertaken and to compensate for the personal stress and strain encountered by certain grades of staff.

Under the original provisions only women qualified for SC status. As a result of the European Court of Justice (ECJ) decision in the case of *Barber v Guardian Royal Exchange Assurance Group*, known as the 'Barber Judgement', men are now entitled to qualify for the status. However, for men this only applies to membership from 17 May 1990, (the date of the judgement). Benefits in respect of membership prior to this date can be claimed on Actuarially Reduced Early Retirement (ARER) grounds or deferred for payment at age 60, the Normal Pension Age in the 1995 Section.

Abolition of Special Class status

On 6 March 1995 the NHS Pension Scheme regulations were amended and SC status was abolished for all members, however, an exception was made for members who already held SC status on or before this date and who did not have a break in membership of 5 years or more.

SC status does not apply in the 2008 Section or the 2015 Scheme

Eligibility following a break

In pensionable employment on 6 March 1995

If a member was in pensionable employment (contributing to the Scheme) on 6 March 1995 as a member of the special classes they will qualify for SC status on rejoining the Scheme in employment which attracts the status, as long as they do not have a break in pensionable employment of any one period of five years or more. This is the case even if they subsequently receive a refund of contributions, transfer benefits out of the Scheme or retire.

Not in pensionable employment on 6 March 1995

If a member had deferred benefits as a SC member on 6 March 1995, they will qualify for SC status on rejoining the Scheme in employment which attracts the status, as long as they do not have a break in pensionable membership of any one period of five years or more.

Note: If the member had transferred benefits out of the Scheme, received a refund or retired as a SC member prior to 6 March 1995 then they are not eligible for the status on returning to pensionable employment.

Which grades make up the special classes?

- Nurses
- Physiotherapists
- Midwives
- Health Visitors

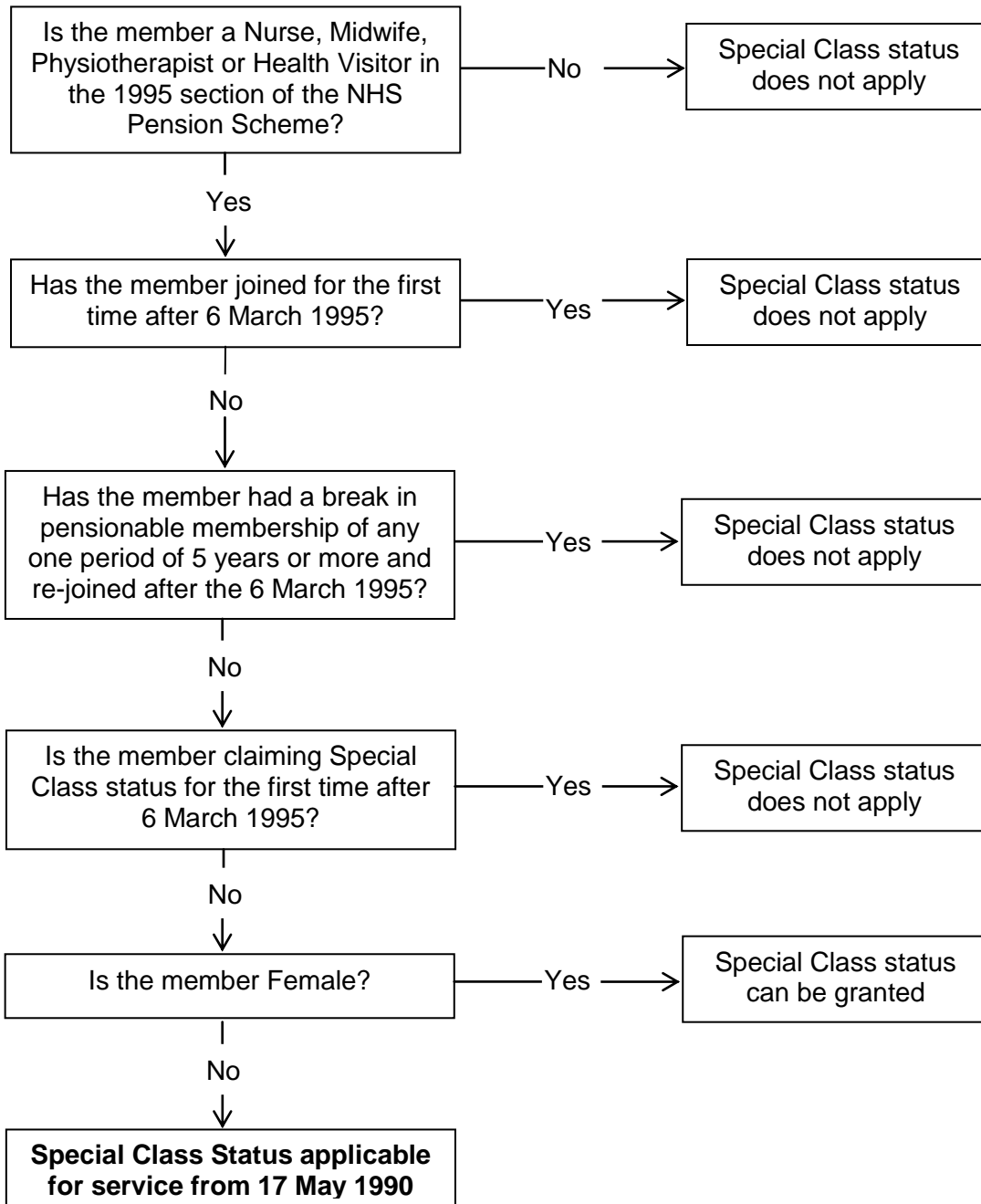
Nurse Auxiliaries and Occupational Health Nurses are grades that may have SC status. However, Nursery Nurses and Physiotherapy Helpers cannot have SC status and Health Care Assistants (HCA's) are not usually considered for the status.

The duties of the post the member is undertaking must be considered. For example, a person who holds a nursing qualification but works as a secretary could not be considered for SC status.

If an employer is unsure whether a post would enable a member to qualify for SC status they must contact NHS Pensions providing a copy of the job description, person specification, organisation chart and any other information considered relevant.

NHS Pensions maintains the right to make the final decision.

Special Class decision tree (1995 Section)



Benefits of Special Class Status

Members of the NHS Pension Scheme who hold 'SC Status' are eligible to retire at age 55.

In order to retire at age 55 a member must have spent the whole of the last five years pensionable employment in a health service scheme as a member of the special classes. This does not need to be continuous i.e. breaks in NHS employment will not be counted when assessing the five year period.

A member must be in a SC post immediately prior to retirement. When a member leaves pensionable employment before age 55 benefits become deferred and do not become payable until the Normal Pension Age of 60.

Redundancy - An exception to this is a SC member who is made redundant and is not in receipt of a redundancy pension. In these circumstances a member with deferred benefits may claim these benefits at age 55 if the last 5 years of pensionable employment was as a member of the SC.

Eligibility following a break

In pensionable employment on 6 March 1995

If a member was in pensionable employment (contributing to the Scheme) on 6 March 1995 as a member of the special classes they will qualify for SC status on rejoining the Scheme in employment which attracts the status, as long as they do not have a break in pensionable employment of any one period of five years or more. This is the case even if they subsequently receive a refund of contributions, transfer benefits out of the Scheme or retire.

Not in pensionable employment on 6 March 1995

If a member had deferred benefits as a SC member on 6 March 1995, they will qualify for SC status on rejoining the Scheme in employment which attracts the SC status as long as they do not have a break in pensionable membership of any one period of five years or more.

Note: If the member had transferred benefits out of the Scheme, received a refund or retired as a SC member prior to 6 March 1995 then they are not eligible for the status on returning to pensionable employment.

Retention of SC status

In certain circumstances the status may be retained where a member of the Scheme moves into a management role within the relevant service or field of expertise

Criteria for retention of SC status

In order to retain the status in a senior nurse management post a member must hold a nursing qualification and that nursing qualification must be an essential requirement for the role, which must be demonstrated in the job description/person specification.

A member must have held the status in the post directly before the post in which they wish to 'retain' the status.

General management posts

Members appointed to general management posts will not normally be allowed to retain the status. However where a nursing qualification is a requirement and a member undertakes functions in addition to general management duties such as a continuing commitment to nursing duties, providing professional advice on nursing matters or an advisory or supervisory role within nursing, the status can be considered.

CCGs and the retention of Special Class status

SC status is a legacy provision within the 1995 Section of the 1995/2008 NHS Pension Scheme and is primarily available to eligible members of staff who are engaged in pensionable employment as a nurse, midwife or health visitor; this is confirmed in Regulation R2 Nurses, physiotherapists, midwives and health visitors:

(1)(a)(i) is in pensionable employment as a nurse, physiotherapist, midwife or health visitor.

In certain circumstances the status may be retained where a member of the Scheme moves into a management role within the relevant service or field of expertise.

NHS Pensions understands that Clinical Commissioning Groups (CCGs) are mainly involved in the commissioning of services from other providers, and are not directly involved in the actual care and treatment of patients undertaken by those employed in the more traditional roles in a hospital environment. Therefore, as a general rule, NHS Pensions expects that the majority of, but not all, CCG employees will be employed in an administrative capacity (i.e. capacity code 04) and not in nursing or medical roles (i.e. capacity codes 01 and 03).

Where retention of SC status is being considered, the employer is directed to this factsheet and decision tree above for specific guidance which confirms the requirements for retention and when to redirect a case to NHS Pensions for advice.

For clarity, CCGs can make their own assessments against the retention criteria for posts up to the level of Director of Nursing, at which point the case has to be referred to NHS Pensions. Should there be any doubt that a member may be able to retain SC status then the CCG must refer the case to NHS Pensions and any applications for retention must include:

- the current job description, person specification and organisational chart
- a copy of the previous job description
- a completed Request for retention of Mental Health Officer/SC status on promotion to a manager (SMR) form.

To ensure staff are fully aware of their pension rights, all employers should determine which roles retain SC status and must inform post holders at application or without delay upon appointment.

To ensure that all members employed at CCGs have been correctly considered for the retention of SC status, CCGs must check the SC status of any current or former members of staff to ensure their pension record reflects their correct SC status position.

If any current or former member of staff does not retain their SC status the CCG must immediately inform NHS Pensions of the amendment and inform the individual of the decision, if a current address is available. Appeals should be dealt with locally, but NHS Pensions can provide advice and retains the right to make the final decision.

Decision making

Where an employer makes the decision on retention the guidelines above must be adhered to. NHS Pensions expect employers to compare the current role with the previous one to assess any significant parallels. How the member has demonstrated the criteria for retention must be recorded, so evidence can be provided to NHS Pensions if requested.

The employer should notify NHS Pensions that they have considered the member for retention of SC status. The member should not be notified of the decision on retention until the employer receives confirmation from NHS Pensions that this has been accepted.

For all general management posts, and in any cases of doubt for senior nurse management posts an employer should contact NHS Pensions providing copies of the current and former job descriptions and person specifications. Information about the qualifications required for the post together with any other information considered relevant to the application should also be provided.

Investigations into retention of SC status should be made at the time a member commences a role. NHS Pensions would not expect these investigations to be commenced just prior to retirement. When deciding whether a member can retain SC status it is also important to remember that consideration is being given to whether the particular member can retain SC status in that role. This does not necessarily mean that SC status would apply automatically to any other member subsequently undertaking the role.

In all cases of retention NHS Pensions maintain the right to make the final decision.

Transition to the 2015 Scheme

1995 Section members holding SC status who either move straight into the 2015 Scheme or do so following the end of a period of Tapered Protection and who do not exceed a break of five years or more, will have a final salary link for the purpose of the 1995 Section pension benefits. If the final salary link is maintained and the criteria to retire at age 55 for SC purposes is met, the 1995 Section benefits can be claimed once all NHS employment ends. Any 2008 Section or 2015 Scheme benefits would be calculated as normal and, if being paid before the Normal Pension Age, would attract an actuarial reduction.

Although SC status is not applicable to 2015 Scheme membership, it will still need to be recorded to establish possible early retirement criteria for those members who hold preserved rights in the 1995 Section. Employers will need to continue to accurately record retention of SC status in these circumstances.

Age and service restrictions for Special Class members

A member with SC status is restricted to 40 years pensionable membership at age 55 and 45 years overall.

When the maximum 45 years pensionable membership is reached before age 60 (this usually only applies to those who also hold MHO status) a member must continue to pay pension contributions until age 60 unless they opt out of the Scheme or retire and claim their pension benefits.

Where the maximum 45 years pensionable membership is reached after age 60 but before age 65 a member must cease paying contributions when 45 years pensionable membership is achieved.

All SC members must cease to pay contributions at age 65 regardless of the amount of pensionable membership they have achieved.

In all cases pension benefits are not payable until a member leaves NHS employment and retires or on reaching age 75* whichever is earlier.

*70 on or before 31 March 2008.

Process for applying for Special Class Status for nurse grades

Employers do not have to apply for SC status on joining a member as this is automatically applied where a member is eligible and on recording capacity code 01 and employment type 1 on the SS10 joiner form.

Process for applying for retention of SC status for nurse manager grades:

If SC status has already been confirmed in the job immediately prior to the current employment and retention is applicable, the joiner form can be submitted showing capacity 01 instead of the usual capacity 04 for a manager. No further action is required and the employer notification received on the notice board will show a Normal Pension Age of 55.

A capacity code 04 should be included on the joiner form if SC status is not confirmed or known in the previous employment.

If retention of SC status needs to be queried after the joiner form is submitted, the following process should be followed:

- Confirm relevant SC eligibility criteria will be met.
- Telephone the employer line to confirm whether the status was previously held in the employment immediately prior to the period being queried.
- Refer to the Pension Scheme forms page and download the SMR form if applicable.

This application form (SMR) can be used to request 'Retention' of MHO and or Special Class (SC) status for a nurse manager. This form can be used where the employer has either made the decision or requires NHS Pensions help with decision making.

Separate forms will be required for any successive change in job role.

Criteria to retire at age 55

In order to retire at age 55 a member must have spent the whole of the last five years pensionable employment in a health service scheme as a SC member. Breaks in employment will be ignored when assessing this period but the last five years of pensionable membership must be as a SC member in order to retire from age 55.

A member must be in a SC post immediately prior to retirement. When a member leaves pensionable employment before age 55, benefits become deferred and do not become payable until the Normal Pension Age of 60.

Redundancy - An exception to this is a SC member who is made redundant and is not in receipt of a redundancy pension. In these circumstances a member with deferred benefits may claim these benefits at age 55 if the last 5 years of pensionable employment was as a member of the special classes.