

## **NHS Pensions - Special Class status (1995 Section only)**

### **History of Special class status**

Special Class status is a historical provision awarded to certain professions which, subject to qualifying criteria being met, allows a member to retire at age 55 without a reduction to their benefits.

It is a continuation of the arrangements which existed 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 special class 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 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. Members who transition from the 1995 Section to the 2015 Scheme may still maintain SC status which is important in respect of the 1995 Section benefits.

## 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 Special Class 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 Special Class member on 6 March 1995, they will qualify for special class 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.

**Important note:** If the member had transferred benefits out of the Scheme, received a refund or retired as a special class member on or before 6 March 1995 then they are not eligible for the status on returning to pensionable employment.

## Which grades make up the special classes?

NHS Pension Scheme regulations confirm the following grades have SC status:

- Nurses
- Physiotherapists
- Midwives
- Health visitors

Mental Health Officers are also referred to as members of the special classes. However, Mental Health Officers are subject to different criteria which is explained in a separate factsheet available on our website.

Nurse Auxiliaries and Occupational Health Nurses are Special Class grades.

Nursery Nurses and Physiotherapy Helpers are **not** Special Class grades.

Health Care Assistants are **not** usually considered for the status.

It is the duties of the post the member is undertaking that must be considered. For example a person who holds a nursing qualification, but works as a secretary, could not be considered for Special Class status. A degree in nursing and registration with the Nursing and Midwifery Council (NMC) does not therefore automatically make a nurse eligible for SC status. If an employer is unsure whether a post qualifies for special class status they will contact NHS Pensions for advice. NHS Pensions maintains the right to make the final decision.

## Retention of Special Class status

Historically many senior nursing posts were changed or created to take account of the restructuring of management responsibilities. Representations were made to allow Scheme members who were appointed to management posts to retain special class status. Guidelines were developed to enable employers to make decisions on retention of Special Class status in most cases.

### Criteria for retention of Special Class 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 specification/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.

### Clinical Commissioning Groups (CCG's)

NHS Pensions understands that CCG's are mainly involved in the commissioning of services from other providers and are not normally directly involved in the actual care and treatment of patients i.e. they do not directly administer wards, (nursing) homes, clinics, etc. or employ staff who work in such places, which would normally mean that CCGs do not employ staff to care and treat patients. Therefore, as a general rule, and although qualified nurses may be employed, NHS Pensions expects that the majority of CCG employees will be regarded as individuals employed in an administrative capacity and not nursing. Should a CCG employ a member whose role requires a nursing qualification/experience the member may be considered for retention of SC status.

## Decision making

The decision about whether a member can retain Special Class status in a senior nurse management post up to the grade of director of nursing can be made by an employer. For all general management posts, an employer will contact NHS Pensions for advice.

A member who believes they fulfil the criteria to retain Special Class status should therefore contact their employer in the first instance.

Investigations into retention of Special Class status should be made before, or 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 Special Class status, consideration is being given to whether the particular member can retain Special Class status in that role. This does not necessarily mean that Special Class 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.

## 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 Special Class member. Breaks in employment will be ignored when assessing this period but the last five years of pensionable membership must be as a Special Class member in order to retire from age 55.

A member must be in a special class 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 special class 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 five years of pensionable employment was as a member of the special classes.

## Transition to the 2015 Scheme

Although Special Class status is not applicable to 2015 Scheme membership, it will still be recorded to establish the retirement criteria from age 55 for those members who hold preserved rights in the 1995 Section.

1995 Section members holding Special Class 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 Special Class 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.

## Age and service restrictions for Special Class members

A member with Special Class 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 mental health officer 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 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.

A special class member 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 (70 on or before 31 March 2008) whichever is earlier.

## Process for applying for Special Class status

If eligible, Special Class status will be applied automatically when an employer submits joiner information to NHS Pensions and you should not need to request it. Retention of Special Class status must be requested in all instances by your employer on your behalf.

If you wish to check your entitlement you should:

- Read the information provided in this factsheet to check if you may be eligible for Special Class status.
- Telephone our customer contact centre to confirm whether the status is already recorded on our records.
- If required you should send a request to the relevant employer.

Where possible, members should query Special Class status directly with the relevant employer. The Employer Directory located in the Members Hub can be used to look up the address or our customer contact centre may be able to help you.

Where a member is eligible, the employer will provide NHS Pensions with employment details in order to update pension records and confirm eligibility.

NHS employers cannot keep records indefinitely so an enquiry is best made when commencing a new employment. Special Class status can still be requested retrospectively if it wasn't identified during the employment but it must be noted that where a request has previously been rejected, further requests should not be made unless new supportive evidence is available.