
STATUTORY INSTRUMENTS

1992 No. 3046 (S.250)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (Superannuation,
Premature Retirement and Injury Benefits)
(Scotland) Amendment Regulations 1992**

<i>Made</i>	- - - -	<i>1st December 1992</i>
<i>Laid before Parliament</i>		<i>11th December 1992</i>
<i>Coming into force</i>	- -	<i>1st January 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 10, 12 and 24 of the Superannuation Act 1972(1) and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to him to be appropriate in accordance with section 10(4) of that Act, and with the consent of the Treasury(2), hereby makes the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service (Superannuation, Premature Retirement and Injury Benefits) (Scotland) Amendment Regulations 1992.

- (2) These Regulations shall come into force on 1st January 1993 and shall have effect—
- (a) for the purposes of regulations 6, 15, 16, 19(b)(ii) and (iii) and (c), and 21 as from 6th April 1988;
 - (b) for the purposes of regulation 19(a) as from 11th April 1988;
 - (c) for the purposes of regulation 12 as from 12th December 1988;
 - (d) for the purposes of regulation 11 as from 1st April 1990;
 - (e) for the purposes of regulation 8 as from 28th February 1991;
 - (f) for the purposes of regulations 3, 4, 5, 10, 13, 14 and 17 as from 1st April 1991; and
 - (g) for the remainder as from the date of coming into force of these Regulations.

(1) 1972 c. 11; section 10 was amended by Part II of Schedule 7 to the National Health Service (Scotland) Act 1972 (c. 58) and sections 10(2A) and (3A) and 12(4A) were inserted and section 12(2) amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), sections 4(2), 8(5) and 10.

(2) The function was transferred to the Treasury by S.I. 1981/1670.

Interpretation

2. In these Regulations—

“the principal Regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1980⁽³⁾;

“the compensation Regulations” means the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 1981⁽⁴⁾; and

“the injury benefits Regulations” means the National Health Service (Scotland) (Injury Benefits) Regulations 1974⁽⁵⁾.

Amendment of regulation 3 of the principal Regulations

3. In regulation 3 of the principal Regulations (definitions)—

(a) after the definition “the Act of 1978” there shall be inserted—

““the Act of 1990” means the National Health Service and Community Care Act 1990;”⁽⁶⁾;

(b) in the definition of “employing authority”—

(i) after the words “a Health Board”, there shall be inserted the words “, a Special Health Board, a National Health Service Trust”; and

(ii) after the words “the Act of 1978” there shall be inserted the words “, the Act of 1990”;

(c) after the definition of “non-participating employment” there shall be inserted—

““non-recurring bonus” means a payment made in recognition of performance in a particular period which—

(a) falls to be paid only once in respect of that period; and

(b) is an addition to the salary of an officer where either—

(i) the officer is entitled to the maximum salary which is payable in respect of his post; or

(ii) the officer has retired from his post before the day of payment;”;

(d) in the definition of “remuneration” after the words “but does not include” there shall be inserted the words “any non-recurring bonus,”.

Amendment of regulation 4 of the principal Regulations

4. In regulation 4 of the principal Regulations (participation in superannuation scheme)—

(a) in paragraph (1), after the words “Subject to” there shall be inserted the words “paragraph (1A) and”;

(b) in paragraph (1)(f) for the words “satisfies the requirements of schedule 6” there shall be substituted the words “elects that these Regulations shall apply to him by giving written notice to the Secretary of State”;

(c) in paragraph (1) proviso (v) shall cease to have effect;

(d) in paragraph (1) after proviso (iv) there shall be inserted—

⁽³⁾ S.I. 1980/1177 as amended by S.I. 1981/1680, 1983/272, 1988/1956, 1989/807, 1749 and 1990/382.

⁽⁴⁾ S.I. 1981/1785, amended by S.I. 1985/2036.

⁽⁵⁾ S.I. 1974/1838, amended by S.I. 1986/587.

⁽⁶⁾ 1990 c. 19.

- “(v) for the purposes of sub-paragraph (f) where there is a reduction in hours from full-time to part-time without a break in service an election shall have effect from the first day of part-time employment;
- (vi) an election under sub-paragraph (f) will continue to have effect as long as he remains an officer with the same employing authority without a continuous break of 12 months or more other than a period to which regulation 24(2) applies and has not made an election under regulation 4A.”; and
- (e) after paragraph (1) there shall be inserted—
 - “(1A) An officer who has been a general dental practitioner and who has received a pension under regulation 10(1)(a)(iii) on account of the termination of an arrangement to provide general dental services pursuant to section 25 of the Act of 1978(7) shall not accrue further entitlement to benefit under the scheme.”.

Amendment of regulation 4A of the principal Regulations

5. In regulation 4A of the principal Regulations (Voluntary membership) paragraph (3) shall cease to have effect.

Amendment of regulation 8 of the principal Regulations

6. In regulation 8 of the principal Regulations (Mental Health Officers) in paragraph (1)(b) for the words “paragraph 5” there shall be substituted the words “paragraph 7”.

Amendment of regulation 21 of the principal Regulations

7. In regulation 21 of the principal Regulations (power to compound certain small benefits)—
- (a) in paragraph (1), for the words “the annual sum payable to any person other than a widow or dependent child is” there shall be substituted the words “the aggregate of the annual sum payable under these Regulations to any person other than a widow or dependent child and of any sums specified in paragraph (1A) of this regulation payable to that person amounts to”;
 - (b) in paragraph (1) for the words “£78” there shall be substituted the words “£260 or such higher amount as may be prescribed from time to time by Regulations made under paragraph 15(4) of Schedule 16 to the Social Security Act 1973(8) and section 39(1) of the Pensions Act”;
 - (c) after paragraph (1) there shall be inserted—
 - “(1A) The sums referred to in paragraph (1) are—
 - (a) the actuarial equivalent as an annual pension of any lump sum payable under these Regulations;
 - (b) the annual amount of benefits payable under any additional voluntary contributions scheme to which section 591(2)(h) or section 592(1)(b) of the Income and Corporation Taxes Act 1988(9) applies.”; and
 - (d) in paragraph (3) for the words “£104” there shall be substituted the words “£260 or such higher amount as may be prescribed from time to time by Regulations made under

(7) 1978 c. 29; section 25 was amended by section 40 of the National Health Service and Community Care Act 1990 (c. 19).

(8) 1973 c. 38; paragraph 15(4) of Schedule 16 was amended by the Social Security Act 1989 (c. 24), Schedule 6, paragraph 4(c) and by the Social Security Act 1990 (c. 27), Schedule 4, paragraph 5(3).

(9) 1988 c. 1.

paragraph 15(4) of Schedule 16 to the Social Security Act 1973 and section 39(1) of the Pensions Act”.

Amendment of regulation 39 of the principal Regulations

8. In regulation 39 of the principal Regulations (return of contributions) in paragraph (5)(a) the words “after 5th April 1975” shall be deleted.

Amendment of regulation 60 of the principal Regulations

9. In regulation 60 of the principal Regulations (benefits not assignable)—

- (a) in paragraph (1), for the words “paragraph (2)” there shall be substituted the words “paragraphs (1A), (1B) and (2)”; and
- (b) after paragraph (1), there shall be inserted—

“(1A) On the bankruptcy of a person entitled to such pension or other benefit, no part of such pension or other benefit shall pass to any trustees or other person acting on behalf of the creditors of a person so entitled, except as provided in paragraph (1B).

(1B) Nothing in paragraph (1A) shall affect the powers of the court under section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985⁽¹⁰⁾ or under section 310 of the Insolvency Act 1986⁽¹¹⁾, as the case may be.”.

Amendment of regulation 66 of the principal Regulations

10. In regulation 66 of the principal Regulations (application of regulations with modifications)

- (a) in paragraph (1), for the words “paragraph (2)” there shall be substituted the words “paragraphs (2) and (4)”; and
- (b) after paragraph (3) there shall be inserted—

“(4) A practitioner who has been a general dental practitioner and who has received a pension under regulation 10(1)(a)(iii) on account of the termination of an arrangement to provide general dental services pursuant to section 25 of the Act of 1978 shall not accrue further entitlement to benefit under the scheme.”.

Amendment of regulation 68 of the principal Regulations

11. In regulation 68(2) of the principal Regulations (meaning of “remuneration”), the words “or an associate general practitioner” in the second place in which they occur, shall be deleted.

Amendment of Schedule 5 to the principal Regulations

12. In paragraph 7 of Schedule 5 to the principal Regulations (child’s allowance under regulation 17) for the words “regulation 17(2)(b)(ii)” there shall be substituted the words “regulation 17(2)(b)(iii)”.

Schedule 6 of the principal Regulations

13. Schedule 6 of the principal Regulations shall cease to have effect.

(10) 1985 c. 66.

(11) 1986 c. 45.

Amendment of regulation 2 of the compensation Regulations

14. In regulation 2 of the compensation Regulations (interpretation)—

- (a) in the definition of “employing authority”, after the words “a Health Board,” there shall be inserted the words “a Special Health Board, a National Health Service trust,”; and
- (b) in the definition of “officer”, in sub-paragraph (a), after the words “a practitioner as defined in regulation 3 (definitions) of those regulations” there shall be inserted the words “, except a dental practitioner who satisfies the conditions set out in regulation 10(4) of the superannuation regulations (officer’s pension and retiring allowance)”.

Amendment of regulation 6 of the compensation Regulations

15. In regulation 6 of the compensation Regulations (compensation payable to widow or dependants) after the word “widow,”, in each place where it occurs there shall be inserted the word “widower.”.

Amendment of regulation 7 of the compensation Regulations

16. In regulation 7 of the compensation Regulations (compensation where death gratuity becomes payable) after the word “widow” there shall be inserted the word “, widower”.

Amendment of regulation 2 of the injury benefits Regulations

17. In regulation 2 of the injury benefits Regulations (interpretation) in the definition of “employing authority” there shall be inserted—

- (a) after the words “a Health Board,” the words “a Special Health Board, a National Health Service trust,”; and
- (b) after the words “the National Health Service (Scotland) Act 1972”, the words “, the National Health Service and Community Care Act 1990”.

Amendment of regulation 4 of the injury benefits Regulations

18. In regulation 4(6)(b) of the injury benefits Regulations (scale of benefit)—

- (a) in sub-paragraph (i)(B), after the words “said pension,” the word “and” shall be inserted;
- (b) in sub-paragraph (i)(C), for the word “and” there shall be substituted “,;”;
- (c) in sub-paragraph (i), head (D) shall be deleted; and
- (d) after sub-paragraph (iv), there shall be inserted—

“(v) in the case of a person who is in the employment of an employing authority on or after the date of coming into force of these Regulations any retirement allowance payable in accordance with Part V of Schedule 7 to the Social Security Contributions and Benefits Act 1992 in respect of the injury or disease.”.

Amendment of regulation 7 of the injury benefits Regulations

19. In regulation 7 of the injury benefits Regulations (widow’s or widower’s allowance)—

- (a) there shall be substituted for paragraph (1)—

“7.—(1) Subject to paragraphs (2), (3) and (4) and to regulation 10, there shall be payable to the widow or widower of a person mentioned in regulation 6 an annual allowance of the amount, if any, which when added to the amount of any pension payable under the relevant pension scheme in respect of the deceased, to or for the benefit of

the widow or widower, will provide an income of 45 per cent of the deceased's average remuneration.”;

(b) in paragraph (2)—

(i) for the words “3 months” there shall be substituted the words “6 months”;

(ii) the word “his” in line 2 shall be deleted; and

(iii) for the words “his widow” there shall be substituted the words “the widow or widower of the deceased”; and

(c) in paragraph 4, at the beginning, there shall be inserted the words “Where the deceased died before 6th April 1988”.

Amendment of regulation 11 of the injury benefits Regulations

20. In regulation 11(1) of the injury benefits Regulations (lump sum payment on death) for the words “one-quarter” there shall be substituted the words “one half”.

Amendment of regulation 20 of the injury benefits Regulations

21. In regulation 20 of the injury benefits Regulations (determination of questions) after the word “widow” there shall be inserted the word “, widower”.

St Andrew's House,
Edinburgh
20th November 1992

Fraser of Carmyllie
Minister of State, Scottish Office

We consent,

1st December 1992

Irvine Patnick
T.E. Boswell
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Superannuation) (Scotland) Regulations 1980 (“the principal Regulations”), the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 1981 (“the compensation Regulations”), and the National Health Service (Scotland) (Injury Benefits) Regulations 1974 (“the injury benefits Regulations”).

Regulation 3 amends regulation 3 of the principal Regulations by including Special Health Boards and National Health Service trusts in the definition of “employing authority” and providing for certain non-recurring bonuses not to be superannuable.

Regulations 4 and 5 amend regulations 4 and 4A of the principal Regulations to give all part-time officers regardless of the number of hours worked the option of being superannuated under the principal Regulations.

Regulations 4 and 10 amend regulations 4 and 66 of the principal Regulations by excluding certain dental practitioners who have received early retirement benefits from acquiring further superannuation benefits under the principal Regulations.

Regulation 6 is a consequential amendment to Regulation 8 of the principal Regulations to take account of the paragraph numbering in the revised Schedule 2 which was inserted by S.I. 1988/1956.

Regulation 7 amends regulation 21 of the principal Regulations by increasing the limit for commutation of certain benefits from £78 to £260 and linking future increases of that limit to regulations made under paragraph 15 of Schedule 16 to the Social Security Act 1973 (c. 38) and section 39 of the Social Security Pensions Act 1975 (c. 60). It also inserts provision that in calculating whether the annual sum payable to a person exceeds that limit there shall be taken into account the actuarial equivalent as a pension of any lump sum benefits and any benefits payable under an additional voluntary contributions scheme.

Regulation 8 amends regulation 39 of the principal Regulations to remove the option to take a refund of pre-6th April 1975 contributions as part of a short service benefit.

Regulation 9 inserts two new paragraphs in regulation 60 of the principal Regulations to provide that where a person entitled to payment of pension or other benefit becomes bankrupt, he will continue to be entitled to such payment unless an order of court provides otherwise.

Regulation 11 amends regulation 68(2) of the principal Regulations so that it no longer provides for the remuneration of an associate general practitioner to be deducted in calculating the remuneration of a practitioner for purposes of the principal Regulations. That provision was inappropriate as the remuneration of an associate general practitioner is a practice expense and as such already deductible under regulation 68(2).

Regulation 12 is a consequential amendment to Schedule 5 of the principal Regulations to take account of the amendment of regulation 17 by S.I. 1988/1956.

Regulation 13 provides that Schedule 6 of the principal regulations will cease to have effect; it is no longer necessary as a result of the amendment made by regulations 4 and 5 of these Regulations.

Regulation 14 amends regulation 2 of the compensation Regulations by including Special Health Boards and National Health Service trusts in the definition of “employing authority” and certain dental practitioners in the definition of “officer”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulations 15 and 16 amend regulations 6 and 7 of the compensation Regulations so that in respect of service on or after 6th April 1988 widows and widowers are entitled to similar benefits.

Regulation 17 amends regulations 2 of the injury benefits Regulations to include Special Health Boards and National Health Service trusts in the definition of “employing authority”.

Regulation 18 amends regulation 4(6)(b) of the injury benefits Regulations to take into account retirement allowance. It also removes from the calculation of benefit under the injury benefit Regulations any increase in disablement pension due as a result of in-patient hospital treatment.

Regulations 19 and 21 amend regulations 7 and 20 of the injury benefits Regulations so that from 6th April 1988 widowers are entitled to similar rights to widows. Regulation 19 also removes the requirement, for deaths occurring on or after 6th April 1988, that a widower must be incapable, by reason of permanent ill-health, of earning his own living before he may qualify for benefits. Obsolete references to industrial injuries death benefits are removed and the period of the higher initial allowance is increased from 3 months to 6 months from the coming into force of these Regulations.

Regulation 20 amends regulation 11(1) of the injury benefits Regulations by increasing any lump sum payable on death from one quarter to one half of average remuneration, from the coming into force of these Regulations.

Section 12(1) of the Superannuation Act 1972 authorises the making of Regulations with retrospective effect. Regulation 1 provides that certain provisions of these Regulations shall have retrospective effect as follows:—

- (a) regulations 6, 15, 16, 19(b)(ii) and (iii), 19(c) and 21 as from 6th April 1988;
- (b) regulation 19(a) as from 11th April 1988;
- (c) regulation 12 as from 12th December 1988;
- (d) regulation 11 as from 1st April 1990;
- (e) regulation 8 as from 28th February 1991; and
- (f) regulations 3, 4, 5, 10, 13, 14 and 17 as from 1st April 1991.

The remaining provisions have effect on the date these regulations come into force.