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1984 No. 1970 (S. 158)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (Superannuation—Special Provisions) (Scotland) Regulations 1984**

<i>Made - - - -</i>	10th December 1984
<i>Laid before Parliament</i>	9th January 1985
<i>Coming into Operation</i>	30th January 1985

In exercise of the powers conferred on me by sections 10 and 12 of the Superannuation Act 1972(a) and of all other powers enabling me in that behalf, after consulting with such representatives of persons likely to be affected by these regulations as appear to me to be appropriate, in accordance with section 10(4) of that Act, and with the consent of the Treasury(b), I hereby make the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the National Health Service (Superannuation—Special Provisions) (Scotland) Regulations 1984 and shall come into operation on 30th January 1985 and shall take effect from 1st April 1974.

*Interpretation*

2. In these regulations, unless the context otherwise requires—

“average remuneration” has the same meaning as in regulation 38 of the National Health Service (Superannuation) (Scotland) Regulations 1980(c) as if the employee concerned was subject to those regulations;

“dependant” means a person who the Secretary of State is satisfied is wholly or mainly supported by the employee;

“employee” means a person formerly in local government service and at the effective date of these regulations in the paid employment of an employing authority;

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(a) 1972 c. 11; section 10(1)(a) was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, Part II.

(b) See the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2.

(c) S.I. 1980/1177, amended by S.I. 1981/1680, 1983/272.

“employing authority” means a Regional Hospital Board, an Executive Council or a joint committee of Executive Councils constituted under section 32(4) of the National Health Service (Scotland) Act 1947(a), a Health Board, the Common Services Agency for the Scottish Health Service, a State Hospital Management Committee constituted under section 90(2) of the Mental Health (Scotland) Act 1960(b) and any such other body constituted under the National Health Service (Scotland) Act 1947, the National Health Service (Scotland) Act 1972(c), the National Health Service (Scotland) Act 1978(d) or any other Act relating to the provision of health services as the Secretary of State may approve;

“local government service” means employment under a scheduled body within the meaning of the Local Government Superannuation (Scotland) Regulations 1974(e), a local authority, or a local Act authority within the meaning of section 34(1) of the Local Government Superannuation (Scotland) Act 1937(f);

“relevant local authority” in relation to any employee, means the local authority by which he was employed immediately before he was transferred to the employment of an employing authority under the National Health Service (Scotland) Act 1972;

“the superannuation regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1980.

*Persons to whom the regulations apply*

3. These regulations shall apply to an employee who ceases to be in the employment of an employing authority at or after the age at which he would have received superannuation benefits had he been subject to the superannuation regulations or who attains the age of 70 years while in the employment of an employing authority and who—

- (a) was transferred to the employment of an employing authority on 1st April 1974 by virtue of an order made under sections 31, 32 or 34 of the National Health Service (Scotland) Act 1972; and
- (b) in his local government service immediately prior to that transfer had reasonable expectation of receiving a gratuity to be paid in accordance with the provisions of section 18 of the Local Government Superannuation Act 1953(g); and
- (c) has remained in the employment of an employing authority without a continuous break of 12 months or more (disregarding, in calculating the length of any break, any period during which the Secretary of State is satisfied that he could not be employed through illness or some other cause); and
- (d) is not eligible for benefits under the superannuation regulations;

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(a) 1947 c. 27.

(b) 1960 c. 61; section 90(2) was substituted by the Mental Health (Amendment) (Scotland) Act 1983 (c. 39), section 26(1).

(c) 1972 c. 58.

(d) 1978 c. 29.

(e) S.I. 1974/812; relevant amending instruments are S.I. 1975/638, 1984/1232.

(f) 1937 c. 69.

(g) 1953 c. 25.

or where the said employee dies while in the employment of an employing authority, to his widow or any other dependant.

*Payment of benefit*

4. The Secretary of State may pay to any person to whom these regulations apply a benefit either—

- (a) by way of a lump sum of an amount not exceeding twice the amount of the average remuneration of the employee in his employment under an employing authority; or
- (b) by way of periodical payments not exceeding in aggregate the amount aforesaid; or
- (c) by way of an annuity the capital value of which does not exceed the amount aforesaid; or
- (d) by way of a combination of (a) and (b) above provided the payment does not exceed in aggregate the amount aforesaid.

*Benefit payable to widow or other dependant*

5. Where the Secretary of State has granted a benefit to an employee under regulation 3 where either—

- (a) the benefit was by way of periodical payments and the employee dies before all the payments are completed; or
- (b) the benefit was by way of an annuity and the employee dies before receiving an aggregate amount equal to the capital value of the annuity,

the Secretary of State may grant a benefit to the widow or any other dependant of the employee and for that purpose the said regulation 3 shall have effect as if the employee had died while in the employment of an employing authority but as if for the amount specified in that regulation there were substituted the aggregate amount of the periodical payments outstanding at the employee's death or, as the case may be, the difference between the capital value of the annuity and the aggregate amount of the payments made to the employee before his death.

*Conditions for payment of benefit*

6.—(1) Any benefit paid under these regulations shall not exceed the gratuity which, in the reasonable expectation of an employee to whom these regulations apply, might have been received by him in respect of his local government service up to 1st April 1974.

(2) In assessing the reasonable expectations of an employee as aforesaid and in making payment of any benefit under these regulations the Secretary of State shall have regard to the terms of any scheme for the payment of gratuities operated by the local authority in whose service the employee was at the time of his transfer.

(3) Employment with an employing authority on or after 1st April 1974 shall be reckonable for the purposes of determining eligibility for a benefit but not for the purposes of calculating the amount of that benefit.

(4) Where an employee ceases to be in the employment of an employing authority on or after attaining the age at which he could have received superannuation benefits had he been subject to the superannuation regulations ("the earlier age") but before attaining the age at which the relevant local authority would have granted the gratuity ("the later age"), then for the purposes of regulation 4 the assumption shall be made that he has attained the later age, but the amount of benefit payable shall, except where the person retired by reason of permanent ill-health or infirmity of mind or body, be reduced by such amount as may be determined by the Government Actuary, to allow for the difference between the earlier age and the later age.

New St Andrew's House,  
Edinburgh.  
6th December 1984.

We consent,

*George Younger,*  
One of Her Majesty's Principal  
Secretaries of State.

*A. G. Hamilton,*  
*Donald Thompson,*  
Two of the Lords Commissioners of  
Her Majesty's Treasury.

10th December 1984.

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#### EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations provide for the payment of a benefit to an employee, or the widow or dependant of an employee, who was transferred from local government employment to the employment of the National Health Service in Scotland by virtue of an order under sections 31, 32 or 34 of the National Health Service (Scotland) Act 1972 and who in their local government service had expectation of receiving a gratuity under section 18 of the Local Government Superannuation Act 1953.

Regulations 3, 4 and 6 lay down the conditions necessary to qualify for a benefit and the various methods of calculation and payment of such a benefit. Regulation 5 provides that in the event of the death of an employee entitled to an annuity or periodical payments, payment may be made to the widow or dependant.

In exercise of the powers contained in section 12(1) of the Superannuation Act 1972 these regulations have effect from 1st April 1974 (regulation 1).



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