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STATUTORY INSTRUMENTS

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**1993 No. 3167**

**TERMS AND CONDITIONS OF EMPLOYMENT**

**The Redundancy Payments (National Health Service) (Modification) Order 1993**

*Made* - - - - *16th December 1993*  
*22nd December*  
*Laid before Parliament* *1993*  
*Coming into force* - - *13th January 1994*

The Secretary of State in exercise of the powers conferred on him by section 149(1)(b) and section 154(3) of the Employment Protection (Consolidation) Act 1978(1) and of all other powers enabling him in that behalf hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Redundancy Payments (National Health Service) (Modification) Order 1993 and shall come into force on 13th January 1994.~

(2) In this Order, unless the context otherwise requires—

- (a) “relevant event” means any event occurring on or after the coming into force of this Order on the happening of which an employee may become ~entitled to a redundancy payment in accordance with the provisions of the 1978 Act;
- (b) “the 1978 Act” means the Employment Protection (Consolidation) Act 1978.

**Application of order**

2. This Order applies to any person who immediately before the occurrence of the relevant event is employed by an employer described in Schedule 1 to this Order, for the purposes of determining that persons entitlement to a redundancy payment under the 1978 Act and the amount of such payment.

**Application of certain redundancy payments provisions with modifications**

3. In relation to any person to whom this Order applies the provisions of the 1978 Act mentioned in Schedule 2 to this Order shall have effect subject to the modifications specified in that Schedule.

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**Transitional, supplementary and incidental provisions**

4.—(1) Any reference to the 1978 Act in any enactment shall have effect as a reference to that Act as modified by this Order in relation to persons to whom this Order applies.

(2) Any document which refers, whether specifically or by means of a general description, to an enactment which is modified by any provision of this Order shall, except so far as the context otherwise requires, be construed as referring, or as including a reference, to the provision.

(3) Where a period of employment of a person to whom this Order applies falls to be computed in accordance with the provisions of the 1978 Act as modified by this Order, the provisions of this Order shall have effect in relation to any period whether falling wholly or partly before or after the coming into force of this Order.

16th December 1993

*Ann Widdecombe*  
Parliamentary Under Secretary of State,  
Department of Employment

## SCHEDULE 1

Article 2

### EMPLOYMENT TO WHICH THIS ORDER APPLIES: EMPLOYERS IMMEDIATELY BEFORE THE RELEVANT EVENT

1. a health authority within the meaning of section 128(1) of the National Health Service Act 1977(2) (hereinafter in this Schedule referred to as “the 1977 Act”), that is:
  - (i) a Regional Health Authority or a District Health Authority, established by an order made under section 8(1) of the 1977 Act; or
  - (ii) a special health authority established by an order made under section 11(1) of the 1977 Act;
2. a National Health Service trust established by an order made under section 5(1) of the National Health Service and Community Care Act 1990(3);
3. a Family Health Services Authority (formerly called a Family Practitioner Committee) established by an order made under section 10(1) of the 1977 Act;
4. the Dental Practice Board (formerly called the Dental Estimates Board) constituted by regulations made under section 37(1) of the 1977 Act;
5. the Public Health Laboratory Service Board continued in being by section 5(4) and (5) of and Schedule 3 to the 1977 Act;
6. a Health Board or a special Health Board constituted under section 2(1)(a) or section 2(1)(b) respectively of the National Health Service (Scotland) Act 1978(4) (hereinafter in this Schedule referred to as “the 1978 Act”);
7. a State Hospital Management Committee constituted under section 91(2) of the Mental Health (Scotland) Act 1984(5);
8. the Common Services Agency for the Scottish Health Service established under section 10 of the 1978 Act;
9. a National Health Service trust established under section 12A(1) of the 1978 Act;
10. the Scottish Dental Practice Board (formerly called the Scottish Dental Estimates Board) constituted by regulations made under section 4 of the 1978 Act.

## SCHEDULE 2

Article 3

### MODIFICATIONS TO CERTAIN REDUNDANCY PAYMENTS PROVISIONS OF THE 1978 ACT

1. Section 81 of the 1978 Act shall have effect as if:—

- (2) 1977 c. 49; section 5(4) was amended by the Public Health Laboratory Service Act 1979 (c. 23), section 1; section 8(1) was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), Schedule 1, paragraph 28 and by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 1; section 10(1) was substituted by the Health and Social Security Act 1984 (c. 48), section 5(1) and amended by the 1990 Act, section 2(3); section 11(1) was amended by the 1980 Act, Schedule 1, paragraph 31 and by the 1990 Act, Schedule 10; section 37 was amended by the 1980 Act, Schedule 1, paragraph 50, renumbered as section 37(1) by the Health and Medicines Act 1988 (c. 49), section 12(2) and further amended by section 25 of, and Schedule 3 to, that Act; section 128(1) was amended by the 1990 Act, section 26(2).
- (3) 1990 c. 19.
- (4) 1978 c. 29; part of section 2(1) was renumbered as section 2(1)(a) and section 2(1)(b) was inserted by section 28(a) of the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”); section 12A was inserted by section 31 of the 1990 Act; section 4 was amended by section 12 of the Health and Medicines Act 1988 (c. 49).
- (5) 1984 c. 36.

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- (a) in subsection (1) for the words “as been continuously employed for the requisite period” there were substituted the words “as been employed in relevant health service for the requisite period” and for the words “Schedules 4, 13 and 14” there were substituted the words “Schedule 4, as modified by the Redundancy Payments (National Health Service) (Modification) Order 1993, and Schedules 13 and 14”;
  - (b) after subsection (4) there were inserted the following subsection:—
    - “(5) In this section and Schedule 4—
      - (a) “relevant health service” means—
        - (i) continuous employment by an employer referred to in the Appendix to Schedule 2 to the Redundancy Payments (National Health Service) (Modification) Order 1993, or
        - (ii) where immediately before the relevant event a person has been successively employed by two or more employers referred to in the Appendix to Schedule 2 to the said Order, such aggregate period of service with such employers as would be continuous employment if they were a single employer;
      - (b) “relevant event” means any event occurring on or after the coming into force of the Redundancy Payments (National Health Service) (Modification) Order 1993 on the happening of which an employee may become entitled to a redundancy payment in accordance with this Act.”.
2. Section 82 of the 1978 Act shall have effect as if immediately after subsection (7) there were inserted:—
- “(7A) Any reference in this section to re-engagement by the employer shall be construed as including a reference to re-engagement by any employer referred to in the Appendix to Schedule 2 to the Redundancy Payments (National Health Service) (Modification) Order 1993 and any reference in this section to an offer by the employer shall be construed as including a reference to an offer made by any such employer.”
3. Section 84 of the 1978 Act shall have effect as if immediately after subsection (7) thereof there were inserted the following subsection:—
- “(7A) Any reference in this section to re-engagement by the employer shall be construed as including a reference to re-engagement by any employer referred to in the Appendix to Schedule 2 to the Redundancy Payments (National Health Service) (Modification) Order 1993 and any reference in this section to an offer made by the employer shall be construed as including a reference to an offer made by any such employer.”
4. Schedule 4 to the 1978 Act shall have effect as if for paragraph 1 there were substituted the following paragraph:—
- “1. The amount of a redundancy payment to which an employee is entitled in any case to which the Redundancy Payments (National Health Service) (Modification) Order 1993 applies shall, subject to the following provisions of this Schedule, be calculated by reference to the period ending with the relevant date during which he has been employed in relevant health service.”
5. Schedule 6 to the 1978 Act shall have effect as if in paragraph 1 for the words “Schedule 4” there were substituted the words “Schedule 4 as modified by the Redundancy Payments (National Health Service) (Modification) Order 1993”.

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## APPENDIX

### EMPLOYERS WITH WHICH EMPLOYMENT MAY CONSTITUTE RELEVANT HEALTH SERVICE

Any employer described in Schedule 1 whether or not in existence at the time of the relevant event.

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, which comes into force on 13th January 1994, modifies certain redundancy payments provisions of the Employment Protection (Consolidation) Act 1978 (“the 1978 Act”) in their application to persons employed in relevant health service (service with the employers referred to in the Appendix to Schedule 2 to the Order) so that a change of employer does not break continuity for the purposes of the redundancy payments provisions of the 1978 Act.

The 1978 Act has been modified in the same way by the Redundancy Payments (Local Government) (Modification) Order 1983 (SI 1983/1160) (as amended by SI 1985/1872, 1988/907, 1989/532, 1990/826, 1432, 1991/818 and 1993/784) in relation to persons employed in relevant local government service.