
STATUTORY INSTRUMENTS

1995 No. 866

The National Health Service (Injury Benefits) Regulations 1995

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the National Health Service (Injury Benefits) Regulations 1995 and shall come into force on 13th April 1995.

Interpretation

2.—(1) In these Regulations—

“the 1961 regulations” means the National Health Service (Superannuation) Regulations 1961(1);

“the 1980 regulations” means the National Health Service (Superannuation) Regulations 1980(2);

“the pension scheme regulations” means the National Health Service Pension Scheme Regulations 1995(3);

“the previous regulations” means the National Health Service (Injury Benefits) Regulations 1974(4);

“assistant practitioner” means—

- (a) an employee of a medical practitioner or dental practitioner on the list of a Family Health Services Authority being himself a medical practitioner or dental practitioner who, in such employment, is engaged in assisting his employer in the actual discharge of his duties as such practitioner; and
- (b) a medical practitioner who is being trained in general practice as a trainee general practitioner under arrangements made by the Secretary of State;

“average remuneration” means—

- (a) in relation to a person other than a practitioner, such amount as would be or would have been his final year’s pensionable pay, within the meaning of regulation C1(6) of the pensions scheme regulations, as an officer to whom those Regulations apply (assuming, in the case of a person to whom regulation 3(1)(c) applies, that he was in receipt of the pensionable pay which would, in the opinion of the Secretary of State, have been payable if he were employed whole-time by an employing authority on similar duties);

(1) S.I.1961/1441 which was repealed by regulation 86 of the National Health Service (Superannuation) Regulations 1980 (S.I. 1980/362).
(2) S.I. 1980/362 which was repealed by regulation V2 of the National Health Service Pension Scheme Regulations 1995 (S.I. 1995/300).
(3) S.I. 1995/300.
(4) S.I. 1974/1547 as amended by S.I. 1982/288, 1985/39, 1626, 1991/584.

or

- (b) in relation to a practitioner, the yearly average of such amount as would be or would have been his uprated earnings, within the meaning of paragraph 11(2) of Schedule 2 to the pension scheme regulations, as a practitioner to whom those Regulations apply;

calculated as if he had retired—

- (i) in the case of a person eligible for an allowance under regulation 4(3), on the date on which he ceased to be employed as a person to whom regulation 3(1) applies;
- (ii) in the case of a person eligible for an allowance under regulation 4(4) or (5), on the date on which his emoluments were reduced;
- (iii) in the case of any other person, on the date on which by reason of the injury or disease his employment ceased:

Provided that in respect of a person to whom regulation 3(1)(a) applies who, immediately before he ceased to be employed by reason of the injury or disease or as a person to whom regulation 3(1) applies, or immediately before the date on which his emoluments were reduced, as the case may be, was employed as a senior registrar, registrar, senior house officer or house officer, average remuneration shall be increased to the amount which in the opinion of the Secretary of State represents the average remuneration of a general medical practitioner, or a general dental practitioner, as the case may be, of comparable age;

“Dental Practice Board” has the same meaning as in section 12 of the Health and Medicines Act 1988⁽⁵⁾

“emoluments” means all salary, wages, fees and other payments paid or made to a person as such for his own use, and also the money value of any accommodation or other allowances in kind appertaining to his employment, but does not include payments for overtime which are not a usual incident of his employment, or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other money to be spent, or to cover expenses incurred, by him for the purposes of his employment; and where fees or other variable payments were made to a person as part of his emoluments during any period immediately preceding a reduction of emoluments, the amount in respect of fees or other variable payments to be included in the emoluments shall be the average of the fees or other payments paid to him during the period of 3 years immediately preceding the reduction of the emoluments, or such other period as the Secretary of State may think reasonable in the circumstances;

“employing authority” means—

- (a) a health authority within the meaning of section 128 of the National Health Service Act 1977⁽⁶⁾,
- (b) a Family Health Services Authority established by the Secretary of State pursuant to section 10 of the National Health Service Act 1977⁽⁷⁾,
- (c) a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990⁽⁸⁾,
- (d) the Dental Practice Board, and

(5) 1988 c. 49.

(6) 1977 c. 49. The definition of “health authority” was inserted into section 128 by section 5(4) of, and Schedule 3, paragraph 11 to, the Health and Social Security Act 1984 (c. 48).

(7) 1977 c. 49. Section 10 was amended by section 5 of the Health and Social Security Act 1984 (c. 48). See also section 2 of the National Health Service and Community Care Act 1990 (c. 19).

(8) 1990 c. 19.

- (e) any such other body that is constituted under an Act relating to health services and which the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;

“practitioner” means a medical practitioner or a dental practitioner on the list of a Family Health Services Authority and includes an assistant practitioner;

“relevant pension scheme” means any form of arrangement, whether subsisting by virtue of an Act of Parliament (but not an Act relating to national insurance), trust, contract or otherwise for the provision of pension benefits in connection with employment mentioned in regulation 3(1), other than an arrangement for the payment of additional voluntary contributions under which the rate or amount of benefit payable is calculated by reference to the proceeds of the investment of those contributions;

“service” has the meaning given in regulation 5.

(2) Where any pension or child’s allowance which is or would have been payable under a relevant pension scheme is taken into account for the purpose of any calculation under these Regulations, such pension or allowance shall exclude any amount by which it is or would have been increased under the Pensions (Increase) Act 1974⁽⁹⁾.

⁽⁹⁾ 1974 c. 9.