
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 225

NATIONAL HEALTH SERVICE

**The National Health Service Superannuation
Scheme (Additional Voluntary Contributions,
Injury Benefits and Compensation for Premature
Retirement) (Scotland) Amendment Regulations 2008**

<i>Made</i>	- - - -	<i>4th June 2008</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>5th June 2008</i>
<i>Coming into force</i>	- -	<i>28th June 2008</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 10, 12 and 24 of, and Schedule 3 to, the Superannuation Act 1972⁽¹⁾, and all other powers enabling them to do so.

In accordance with section 10(1) of that Act, these Regulations are made with the consent of the Treasury⁽²⁾.

In accordance with section 10(4) of that Act, the Scottish Ministers have consulted with such representatives of persons likely to be affected by these Regulations as appear to be appropriate.

Citation, commencement and effect

1. These Regulations may be cited as the National Health Service Superannuation Scheme (Additional Voluntary Contributions, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008 and come into force on 28th June 2008 but have effect from 1st April 2008⁽³⁾.

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- (1) 1972 c. 11; section 10 was amended by the National Health Service (Scotland) Act 1972 (c. 58), Schedule 7, Part II, sections 10 and 12 were amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), sections 4(2), 8(5) and 10; section 10(6) was amended by the Pension Schemes Act 1993 (c. 48), Schedule 8, paragraph 7 and by the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I.2001/3649), article 108. The functions of the Secretary of State were transferred to Scottish Ministers by virtue of article 2 of and Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).
- (2) See the Superannuation Act 1972, section 10(1). This function was transferred to the Treasury by virtue of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2 and is still exercisable by virtue of S.I. 1999/1750, article 2 and Schedule 1.
- (3) Section 12(1) of the Superannuation Act 1972 provides that Regulations may be framed so as to have effect from a date earlier than that of their making.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Additional Voluntary Contributions, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008. (See end of Document for details)

Commencement Information

II Reg. 1 in force at 28.6.2008, see [reg. 1](#)

Amendment of the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998

^{F1}2.

F1 Reg. 2 revoked (1.6.2018) by [The National Health Service Pension Scheme \(Scotland\) \(Additional Voluntary Contributions\) Regulations 2018 \(S.S.I. 2018/124\)](#), [reg. 1](#), [sch. 2 para. 1\(g\)](#)

Amendments of the National Health Service (Scotland) (Injury Benefits) Regulations 1998

3.—(1) The National Health Service (Scotland) (Injury Benefits) Regulations 1998⁽⁴⁾ are amended as follows.

(2) In regulation 2(1) (interpretation)–

(a) omit the definitions of “average remuneration”, “OOH provider”, “practitioner” and “the Scheme”; and

(b) insert the following definitions at the appropriate place in alphabetical order–

““the 1993 Act” means the Pension Schemes Act 1993⁽⁵⁾”;

““the 2008 Regulations” means the National Health Service Pension Scheme (Scotland) Regulations 2008⁽⁶⁾”;

““average remuneration” means–

(a) 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 whichever of the following is applicable–

- (i) paragraph 11(2) of Schedule 1 to the Superannuation Scheme Regulations, as a practitioner to whom those Regulations apply; or
- (ii) regulation 3.D.1(4)(b) (normal retirement pensions) of the 2008 Regulations, as a practitioner to whom those Regulations apply;

(b) in relation to a person other than a practitioner, such amount as would be or would have been–

- (i) his final year’s pensionable pay under regulation C1 of the Superannuation 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 Scottish Ministers, have been payable if the person were employed whole time by an employing authority on similar duties); or
- (ii) his reckonable pay under regulation 2.A.10 (meaning of “reckonable pay”: general) of the 2008 Regulations, as the case may be, calculated as if he had retired–

⁽⁴⁾ S.I. 1998/1594, amended by S.I. 1999/195 and 444 and S.S.I. 2001/437, 2004/212, 2005/512 and 544.

⁽⁵⁾ 1993 c. 48.

⁽⁶⁾ S.S.I. 2008/224.

- (aa) 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;
- (bb) in the case of a person eligible for an allowance under regulation 4(4) or (5), on the date on which the person's emoluments were reduced; or
- (cc) in the case of any other person, on the date on which by reason of the injury or disease the person's 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, specialist registrar, senior house officer or house officer, average remuneration shall be increased to the amount which in the opinion of the Scottish Ministers represents the average remuneration of a general medical practitioner, or a dental practitioner, as the case may be, of comparable age;"

““OOH provider” has the same meaning as in regulation A3 (approved out of hours providers) of the Superannuation Scheme Regulations or in regulation 3.A.15 (out of hours providers) of the 2008 Regulations as the case may be;"

““practitioner” means–

- (a) a registered medical practitioner other than a GP registrar, who is a locum practitioner, a GP provider or a GP performer;
- (b) a registered dentist or a person treated as a practitioner under regulation R13 (participants in pilot schemes) of the Superannuation Scheme Regulations, but excluding a person who is paid wholly by way of salary by a Health Board or a person treated as an officer under regulation R13;"

““surviving partner” means a widow, widower, surviving civil partner or surviving nominated partner;" and

““the Scheme” has the same meaning as it does in the Superannuation Scheme Regulations or the 2008 Regulations, as the case may be;"

- (3) In regulation 2(2), after “child’s allowance” insert “or child’s pension”.
- (4) In regulation 4 (scale of benefits)–
 - (a) in paragraph (3), for “age 60” (in both cases where it occurs) substitute “normal benefit age”;
 - (b) in paragraph (6)(a), after “the superannuation scheme regulations” insert “or regulation 2.J.6, 3.J.6, 2.J.7 or 3.J.7 of the 2008 Regulations (reduction in benefits in cases where loss caused by member’s crime, negligence or fraud) (forfeiture of right to benefits)”; and
 - (c) after paragraph (9) insert–
 - “(10) In this regulation, “normal benefit age” means–
 - (a) in respect of a person who is or is eligible to be a member of the scheme set out in the Superannuation Scheme Regulations, 60; and
 - (b) in respect of a person who is or is eligible to be a member of the scheme set out in the 2008 Regulations, 65.”
- (5) In regulation 7 (widow's, widower's or surviving civil partner's allowance)–
 - (a) for the heading substitute “Surviving partner allowances”;

- (b) in paragraph (1), for “widow, widower or surviving civil” (in both cases where it occurs) substitute “surviving”;
 - (c) in paragraph (2), for “widow, widower or surviving civil” substitute “surviving”; and
 - (d) for paragraph (3) substitute—
 - “(3) Except if paragraph (3A) applies, a surviving partner is not entitled to receive an allowance—
 - (a) if the marriage took place, the civil partnership was formed or the nomination was made after—
 - (i) the deceased last ceased to be employed as a person to whom these Regulations apply; or
 - (ii) the date on which the deceased’s earning ability was permanently reduced as a result of the injury or disease,
 whichever is the later;
 - (b) if at the date of the deceased’s death such surviving partner and a man or, as the case may be, a woman—
 - (i) to whom the surviving partner is not married; or
 - (ii) with whom she or he is not in a civil partnership,
 are living together as husband and wife or as civil partners; or
 - (c) in respect of any period after such surviving partner—
 - (i) remarries or forms a civil partnership; or
 - (ii) during which the surviving partner lives together with another person as if the surviving partner was married to or in a civil partnership with that other person,
 but where such marriage or civil partnership has terminated, the Scottish Ministers may restore an allowance to a surviving partner if they are satisfied that such surviving partner is suffering hardship.”
- (6) In regulation 8 (child’s allowance)—
- (a) in paragraph (2)(c), for “or civil partner” substitute “, civil partner or nominated partner”; and
 - (b) for paragraph (6), substitute—
 - “(6) In this regulation, the “allowable maximum” means the amount to which a pension under the 1995 Regulations or the 2008 Regulations (as the case may be) of £2404 a year beginning on 9th April 2007 would have been increased under Part I of the Pensions (Increase) Act 1971 at the date in question, plus the yearly amount of any expenses necessarily incurred for the purposes of the education or training.”
- (7) In regulation 9 (dependent relative’s allowance)—
- (a) in paragraph (1)(a), for “or civil partner's” substitute “, civil partner’s or nominated partner's”; and
 - (b) in paragraph (2)—
 - (i) for “widow, widower or surviving civil” substitute “surviving”; and
 - (ii) omit “spouse or civil” (in both cases where it occurs).
- (8) In regulation 11(1) (lump sum payment on death)—
- (a) in sub-paragraph (a), for “widow, widower or surviving civil” substitute “surviving”; and
 - (b) in sub-paragraph (b), for “or civil partner” substitute “, civil partner or nominated partner”.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Additional Voluntary Contributions, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008. (See end of Document for details)

(9) In regulation 12(3) (incidental provisions), for “widow's, the widower’s or the surviving civil” substitute “surviving”.

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Commencement Information

I2 Reg. 3 in force at 28.6.2008, see [reg. 1](#)

Amendments to the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003

4. For regulation 4(2) of the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003(7) (payment of compensation) substitute—

“(2) The compensation payable in accordance with this paragraph shall consist of an annual allowance at a rate equal to the rate by which that pension would be increased in accordance with the Superannuation Scheme Regulations, if—

- (a) a period equal to the period with which the entitled officer is credited under regulation 5 were added to the pensionable service in respect of which that pension is payable; and
- (b) for the purposes of regulation C1 (meaning of “pensionable pay”) of the Superannuation Scheme Regulations the whole period is treated as if it was added to the entitled officer’s pensionable service in respect of pensionable employment before 1st April 2008.”.

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Commencement Information

I3 Reg. 4 in force at 28.6.2008, see [reg. 1](#)

St Andrew’s House,
Edinburgh
29th May 2008

JOHN SWINNEY
A member of the Scottish Executive

We consent

4th June 2008

CLAIRE WARD
FRANK ROY
Two of the Lord’s Commissioners of Her
Majesty’s Treasury

Changes to legislation: There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Additional Voluntary Contributions, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008. (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998 (“the AVC Regulations”), the National Health Service (Scotland) (Injury Benefits) Regulations 1998 (“the Injury Benefits Regulations”) and the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003 (“the Compensation Regulations”).

Regulation 2 amends the AVC Regulations by inserting new definitions in consequence of changes to the National Health Superannuation Scheme (Scotland) Regulations 1995 (“the 1995 Regulations”) and the scheme rules set out in the National Health Service Pension Scheme (Scotland) Regulations 2008 (“the 2008 Regulations”). The amendments to the AVC Regulations indicate which of the 1995 Regulations or 2008 Regulations apply in any given case.

In addition to the above, the Scottish Ministers are designated as the administrator of the AVC Scheme for the purposes of the Finance Act 2004 (see regulation 2(14)(b)).

Regulation 3 amends the Injury Benefits Regulations in the same way and for the same purpose as regulation 2 amends the AVC Regulations.

Regulation 4 amends the Compensation Regulations so as to specify the amount of compensation payable by way of an annual allowance under the 1995 Regulations or 2008 Regulations, whichever applies.

A full impact assessment has not been produced for this instrument as it has no impact on the costs of business, charities or the voluntary sector.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service Superannuation Scheme (Additional Voluntary Contributions, Injury Benefits and Compensation for Premature Retirement) (Scotland) Amendment Regulations 2008.