
SCOTTISH STATUTORY INSTRUMENTS

2017 No. 28

**The National Health Service Pension Scheme (Scotland)
(Miscellaneous Amendments) Regulations 2017**

PART 3

**Amendment of the National Health Service Pension Scheme
(Transitional and Consequential Provisions) (Scotland) Regulations 2015**

New regulation 10A

29. After regulation 10, insert—

“Effect of recommencing service after break

10A.—(1) Paragraph (2) applies where—

- (a) on the date a person becomes eligible to join the new scheme that person is absent from work because of illness or injury and that person’s earnings have ceased either—
 - (i) in the circumstances described in regulation P1 of the 2011 Regulations; or
 - (ii) in the circumstances described in regulation 2.A.10(7) or 3.A.8(4) of the 2013 Regulations; and
- (b) on the date the person’s employment is terminated or the person dies (“the relevant date”)—
 - (i) that person’s earnings have not recommenced; and
 - (ii) for the purposes of the new scheme, that person’s pensionable earnings are zero.

(2) Where paragraph (1) is satisfied, if the earnings of a person referred to in that paragraph had recommenced at the relevant date the scheme manager may determine that the person would have become entitled to either—

- (a) the benefit set out at paragraph (4)(b) of regulation 28 (ill health benefits: members below normal pension age) where that person’s employment is terminated; or
- (b) one or more of the benefits set out at regulation 38 (death in service) where that person dies.

(3) Where the scheme manager does so determine, for the purposes of calculating the benefits referred to in paragraph (2)—

- (a) the person is treated as if they were in pensionable service on their last day of NHS employment, and
- (b) contributions in respect of that day are deemed to have been paid.”.