
 STATUTORY INSTRUMENTS

1986 No. 587 (S.57)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Scotland) (Injury Benefits)
Amendment Regulations 1986

<i>Made</i> - - - - -	18th March 1986
<i>Laid before Parliament</i>	10th April 1986
<i>Coming into Operation</i>	1st May 1986

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.—(1) These regulations may be cited as the National Health Service (Scotland) (Injury Benefits) Amendment Regulations 1986 and these regulations and the National Health Service (Scotland) (Injury Benefits) Regulations 1974(c) may be cited together as the National Health Service (Scotland) (Injury Benefits) Regulations 1974 to 1986.

(2) These regulations shall come into operation on and have effect from 1st May 1986 except regulation 4(c) which shall have effect from 31st March 1984.

Interpretation

2. In these regulations “the principal regulations” means the National Health Service (Scotland) (Injury Benefits) Regulations 1974.

Application of these regulations

3. The principal regulations as amended by regulation 4(c) of these regulations shall apply to an employee of a State Hospital Management Committee constituted under section 91(2) of the Mental Health (Scotland) Act 1984(d) with effect from 31st March 1984 and the principal regulations as otherwise amended by these regulations shall apply to a person who has suffered an injury or contracted a disease in accordance with regulation 3(1) of the principal regulations after 1st May 1986.

(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. 1974/1838.

(d) 1984 c. 36.

Definitions

4. In regulation 2 of the principal regulations in paragraph (1)—

- (a) in the definition of “the superannuation regulations” for the words “the National Health Service (Superannuation) (Scotland) Regulations 1961, as amended;” there shall be substituted the words “the National Health Service (Superannuation) (Scotland) Regulations 1980(a)”;
- (b) in the definition of “average remuneration” for the words “regulation 15(4)” and “regulation 35(1)” there shall be substituted respectively the words “regulation 15(5)” and “regulation 38(1)” and for the words “provisos (g) and (i)” there shall be substituted the words “provisos (f) and (g)”;
- (c) in the definition of “employing authority”—
 - (i) “(a)” shall be deleted;
 - (ii) after the words “Scottish Health Service” there shall be inserted the words—
 - “, a State Hospital Management Committee constituted under section 91(2) of the Mental Health (Scotland) Act 1984”;
 - (iii) paragraph (b) shall be deleted.

Persons to whom the regulations apply

5. In regulation 3 of the principal regulations—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (d) after the words “the National Health Service (Scotland) Act 1972(b)” there shall be inserted the words “or the National Health Service (Scotland) Act 1978(c)”;
 - (ii) for the words from “either” to the end of the paragraph there shall be substituted the words “sustains an injury, or contracts a disease, to which paragraph (1A) applies.”;
- (b) after paragraph (1) there shall be inserted—

“(1A) This paragraph applies to an injury which is sustained, and to a disease which is contracted, in the course of the person’s employment and which is attributable to his employment and also to any other injury sustained (and similarly to any other disease contracted) if—

- (a) it is attributable to the duties of his employment;
- (b) it is sustained while, as a volunteer at an accident or emergency, he is providing health services which his professional training and code of conduct would require him to volunteer; or
- (c) it is sustained while he is travelling as a passenger in a vehicle to or from his place of employment with the permission of the employing authority and if in addition—
 - (i) he was under no obligation to the employing authority to travel in the vehicle but, if he had been, the injury would have been sustained in the course of, and have been attributable to, his employment, and

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

(b) 1972 c. 58.

(c) 1978 c. 29.

- (ii) at the time of the injury the vehicle was being operated, otherwise than in the ordinary course of a public transport service, by or on behalf of the employing authority or by some other person by whom it was provided in pursuance of arrangements made with the authority.”.

Scale of benefit

6.—In regulation 4 of the principal regulations—

(1) in paragraph (6)(b)—

(a) sub-paragraph (i) shall be deleted;

(b) in sub-paragraph (ii) which shall be renumbered sub-paragraph (i)—

(i) for the words “section 12 of the National Insurance (Industrial Injuries) Act 1965(a)” there shall be substituted the words “section 57 of the Social Security Act 1975(b)”;

(ii) in sub-paragraph (A) for the words “section 13” there shall be substituted the words “section 58” and for the words from and including “so, however,” to the end of the sub-paragraph there shall be substituted the words “excluding any increase in that supplement under section 59 of that Act,”;

(iii) in sub-paragraph (B) for the words “section 14” there shall be substituted the words “section 60”;

(iv) in sub-paragraph (C) for the words “section 17 or 18” there shall be substituted the words “section 64 or 66”; and

(v) in sub-paragraph (D) for the words “section 16, 17 or 18” there shall be substituted the words “section 62” and the words “and dependants” shall be deleted;

(c) for sub-paragraph (iii) there shall be substituted—

“(ii) any sickness benefit payable under section 14 of the Social Security Act 1975 (including benefit payable by reason of section 50A of that Act(c)) in respect of the injury or disease together with any increase therein payable under sections 41 to 48 of that Act (dependants);

(iii) any invalidity pension payable under section 15 of the Social Security Act 1975 in respect of the injury or disease together with any increase in that pension payable under sections 41 to 48 of that Act (dependants);

(iv) any severe disablement allowance payable under section 36 of the Social Security Act 1975 in respect of the injury or disease together with any increase payable under section 49 of that Act(d) (dependants).”;

(2) in paragraph (8) for the words “regulation 72” there shall be substituted the words “regulation 78”.

(a) 1965 c. 52.

(b) 1975 c. 14.

(c) Section 50A was added by section 39(4) of the Social Security and Housing Benefits Act 1982 (c. 24).

(d) Section 36 was substituted by section 11(1) of, and section 49 was amended by Schedule 4, paragraph 3 to, the Health and Social Security Act 1984 (c. 48).

Widow's or widower's allowance

7. In regulation 7 of the principal regulations in paragraph (1)(b)—

- (a) in sub-paragraph (i) for the words “section 19 of the National Insurance (Industrial Injuries) Act 1965” there shall be substituted the words “section 67 of the Social Security Act 1975” and for the words “the National Insurance Act 1965; (a)” there shall be substituted the words “section 26 of that Act;”;
- (b) in sub-paragraph (ii) for the words “section 20 of the National Insurance (Industrial Injuries) Act 1965” there shall be substituted the words “section 69 of the Social Security Act 1975” and for the words “section 3 of the National Insurance Act 1971; (b)” there shall be substituted the words “section 15 of that Act;”.

Child's allowance

8. In regulation 8 of the principal regulations—

- (a) in paragraph (3) for the words “16 years” there shall be substituted the words “17 years”;
- (b) after paragraph (3) there shall be inserted—

“Provided that an allowance shall be payable to a person who has not attained the age of 19 years, is not engaged in remunerative full-time work and is not entitled to supplementary benefit by reason that he is treated as receiving relevant education for the purposes of section 6(2) of the Supplementary Benefits Act 1976(c).”.

Dependent relative's allowance

9. In regulation 9 of the principal regulations in paragraph (1)(b) for the words “16 years” there shall, in both places where they occur, be substituted the words “17 years”.

Incidental provisions

10. In regulation 12 of the principal regulations in paragraph (3) for the words “regulation 72” there shall be substituted the words “regulation 78”.

Review and adjustment of allowance

11. In regulation 13 of the principal regulations in paragraph (4) for the words “regulation 40” there shall, in each place where they occur, be substituted the words “regulation 42”.

Payment to personal representatives

12. In regulation 19 of the principal regulations—

- (a) for “£500” there shall be substituted the words “£5,000, or such higher amount as would for the time being be applicable in relation to the death if these regulations were an enactment to which section

(a) 1965 c. 51.

(b) 1971 c. 50.

(c) 1976 c. 71; section 6(2) was substituted by the Social Security Act 1980 (c. 30), section 6(1) and Schedule 2, Part I, paragraph 6.

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- 1 of the Administration of Estates (Small Payments) Act 1965^(a) (maximum amount disposable on death without representation) applied”;
- (b) from the words “, or in the case of” to the words “may think fit,” shall be deleted.

Revocation

13. In regulation 22 of the principal regulations in paragraph (2)(c) for the words “regulations 39 and 40” there shall, in each place where they occur, be substituted the words “regulations 41 and 42”.

New St Andrew’s House,
Edinburgh.
29th January 1986.

Malcolm Rifkind,
One of Her Majesty’s Principal
Secretaries of State.

We consent,

Tim Sainsbury,
Michael Neubert,
Two of the Lords Commissioners
of Her Majesty’s Treasury.

18th March 1986.

^(a) 1965 c. 32.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the National Health Service (Scotland) (Injury Benefits) Regulations 1974 (the injury benefits regulations) which provide for the payment of injury benefits to or in respect of any person engaged in the National Health Service in Scotland whose earning ability is reduced or who dies as a result of an injury suffered or disease contracted in the course of his duties.

The principal changes are as follows:—

- (a) The definition of “employing authority” is amended to cover any cases where the responsibility for staff of a mental hospital changes from the Secretary of State to a State Hospital Management Committee. Under the powers of section 12(1) of the Superannuation Act 1972 this amendment has effect from 31st March 1984 (regulations 3 and 4).
- (b) Regulation 3 of the injury benefits regulations (persons to whom the regulations apply) is amended to clarify and extend the injuries and diseases to which the regulations apply, namely injuries sustained and diseases contracted in the course of, and attributable to, the person’s employment and also where the injury or disease is attributable to the duties of the employment, where services are provided voluntarily at an accident or emergency, and in certain cases of travel as an authorised passenger of an employing authority (regulation 5).
- (c) In regulation 4 of the injury benefits regulations (scale of benefit) the provisions relating to sickness benefit and invalidity pensions, which are deductible from benefits payable under that regulation, are amended and certain references to statutory benefits are updated (regulation 6).
- (d) The child’s allowance is extended to cover a person under the age of 19 who is not in remunerative full-time work and who is not entitled to supplementary benefit (regulation 8).
- (e) The age limit for the child’s allowance and the qualifying age for the dependent relative’s allowance is altered from 16 to 17 (regulations 8 and 9).
- (f) The maximum sum payable on death without confirmation is increased from £500 to £5,000 or such higher amount as is payable on death under section 1 of the Administration of Estates (Small Payments) Act 1965 and the special arrangements applying in cases where parents were unmarried have been removed (regulation 12).

These regulations also make other minor amendments and bring up to date certain statutory and other references in the injury benefits regulations.

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