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STATUTORY INSTRUMENTS

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**1991 No. 584**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service Superannuation, Premature Retirement and Injury Benefits (Amendment) Regulations 1991**

<i>Made</i>	- - - -	<i>10th March 1991</i>
<i>Laid before Parliament</i>		<i>11th March 1991</i>
<i>Coming into force</i>	- -	<i>1st April 1991</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 10(1), (2), (3) and (3A), 12(1) and (2) and 24(1), (3) and (4) of, and Schedule 3 to, the Superannuation Act 1972<sup>(1)</sup> and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to him to be appropriate<sup>(2)</sup> and with the consent of the Treasury<sup>(3)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service Superannuation, Premature Retirement and Injury Benefits (Amendment) Regulations 1991 and shall come into force on 1st April 1991.

(2) In these Regulations—

“the principal Regulations” means the National Health Service (Superannuation) Regulations 1980<sup>(4)</sup>;

“the compensation Regulations” means the National Health Service (Compensation for Premature Retirement) Regulations 1981<sup>(5)</sup>; and

“the injury benefits Regulations” means the National Health Service (Injury Benefits) Regulations 1974<sup>(6)</sup>.

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(1) 1972 c. 11; section 10(1)(a) was amended by the National Health Service Reorganisation Act 1973 (c. 32), Schedule 5; section 10(3A) was inserted by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 4(2); section 12(2) was amended by the Pensions (Miscellaneous Provisions) Act 1990, section 10(1).

(2) See the Superannuation Act 1972, section 10(4).

(3) See the Superannuation Act 1972, section 10(1), and the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I.1981/1670), article 2.

(4) S.I. 1980/362, amended by S.I.s 1981/1205, 1982/288, 1765, 1985/39, 1987/2218, 1989/804.

(5) S.I. 1981/1263, amended by S.I. 1982/288, 1985/39, 1659.

(6) S.I. 1974/1547, amended by S.I. 1982/288, 1985/39, 1626.

### **Amendment of regulation 3 of the principal Regulations**

2. In regulation 3 of the principal Regulations (definitions)—
- (a) after the definition of “death gratuity” there shall be inserted the following definition—  
    ““Dental Practice Board” has the same meaning as in section 12 of the Health and Medicines Act 1988(7)
  - (b) at the end of the definition of “employing authority” there shall be added the words “and a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990(8)”;
  - (c) after the definition of “non-participating employment” there shall be inserted the following definition—  
    ““non-recurring bonus” means a payment made in recognition of performance in a particular period which—
    - (a) falls to be paid only once in respect of that period; and
    - (b) is an addition to the salary of an officer where either—
      - (i) the officer is entitled to the maximum salary which is payable in respect of his post; or
      - (ii) the officer has retired from his post before the date of the payment;”;
  - (d) in the definition of “remuneration” after the words “but does not include” there shall be inserted the words “any non-recurring bonus.”.

### **Amendment of regulation 6 of the principal Regulations**

3. In regulation 6 of the principal Regulations (participation in superannuation scheme)—
- (a) in paragraph (1), at the beginning there shall be inserted the words “Subject to paragraph (1A)”;
  - (b) after paragraph (1) there shall be inserted the following paragraph—  
    “(1A) An officer who has been a general dental practitioner and who has received a pension under regulation 8(1)(a)(vi) on account of the termination of an arrangement to provide general dental services pursuant to section 35 of the Act of 1977 shall not accrue further entitlement to benefit under the scheme.”.

### **Insertion of regulation 7A into the principal Regulations**

4. After regulation 7 of the principal Regulations (contributions) there shall be inserted the following regulation—

#### **“Recovery of early retirement costs from employing authorities**

7A.—(1) The relevant employing authority shall make contributions to the Secretary of State equal to—

- (a) the cost of providing the following benefits—
  - (i) annual pension under regulation 8(1)(a)(vi) or 8(5)(a) of these Regulations (early retirement) in respect of pensioners under the age of 60, or under the age of 55 where regulation 54, 55(1)(a) or 55(2)(a) applies; and

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(7) 1988 c. 49.

(8) 1990 c. 19.

- (ii) compensation under regulation 4(1), 6(1) or 7 of the compensation Regulations (payments on early retirement and death); and
  - (b) the cost of providing any increase in the amount of any benefit to which paragraph (a) applies which is payable under the Pensions (Increase) Act 1971<sup>(9)</sup>.
- (2) Where the relevant employing authority is under a duty to make any payment under paragraph (1) above, it shall make that payment to the Secretary of State before the end of the quarter following the quarter in which the benefits referred to in that paragraph became payable.
- (3) In this regulation—
- “relevant employing authority” means the employing authority from whose employment the officer has been certified as retired under regulation 8(7) of these Regulations;
  - “the compensation Regulations” means the National Health Service (Compensation for Premature Retirement) Regulations 1981<sup>(10)</sup>.”

#### **Amendment of regulation 67 of the principal Regulations**

5. In regulation 67 of the principal Regulations (application to practitioners)—
- (a) in paragraph (1), for the reference “paragraph (2)” there shall be substituted the reference “paragraphs (2) and (4)”;
  - (b) after paragraph (3) there shall be inserted the following paragraph—

“(4) A practitioner who has been a general dental practitioner and who has received a pension under regulation 8(1)(a)(vi) on account of the termination of an arrangement to provide general dental services pursuant to section 35 of the Act of 1977 shall not accrue further entitlement to benefit under the scheme.”

#### **Amendment of regulation 69 of the principal Regulations**

6. In regulation 69 of the principal Regulations (meaning of “remuneration” in relation to practitioners), in paragraph (2)(i) and in proviso (e) to paragraph (2), after the words “Family Practitioner Committee” there shall be inserted in both places the words “or the Dental Practice Board”.

#### **Amendment of regulation 85 of the principal Regulations**

7. In regulation 85 of the principal Regulations (determination of questions)—
- (a) after the word “widow” there shall be inserted the word “, widower,”; and
  - (b) the words “and his decision thereon shall be final” shall be omitted.

#### **Amendment of regulation 2 of the compensation Regulations**

8. In regulation 2 of the compensation Regulations (definitions)—
- (a) in the definition of “employing authority”, after sub-paragraph (e) there shall be added the following sub-paragraph—

“(f) a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990<sup>(11)</sup>,”;

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<sup>(9)</sup> 1971 c. 56; see also the Social Security Pensions Act 1975 (c. 60), section 59.

<sup>(10)</sup> S.I. 1981/1263, amended by S.I. 1982/288, 1985/39, 1659.

<sup>(11)</sup> 1990 c. 19.

- (b) in the definition of “officer”, in sub-paragraph (a), after the words “a practitioner as defined in regulation 3 of those regulations” there shall be inserted the words “, except a dental practitioner who satisfies the conditions set out in regulation 8(7) of the superannuation regulations (early retirement benefits)”.

#### **Amendment of regulation 6 of the compensation Regulations**

**9.** In regulation 6 of the compensation Regulations (compensation payable to widow or dependants), after the word “widow” in each place where it occurs there shall be inserted the word “, widower”.

#### **Amendment of regulation 7 of the compensation Regulations**

**10.** In regulation 7 of the compensation Regulations (compensation where death gratuity becomes payable) after the word “widow” there shall be inserted the word “, widower”.

#### **Amendment of regulation 2 of the injury benefits Regulations**

**11.** In regulation 2 of the injury benefits Regulations (definitions) in the definition of “employing authority”—

- (a) in sub-paragraph (e) the word “or” shall be deleted in the last place in which it occurs;
- (b) the following sub-paragraph shall be added after sub-paragraph (f)—
  - “(g) a special health authority;”;
- (c) the following sub-paragraph shall be added after sub-paragraph (g)—
  - “(h) a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990”.

#### **Amendment of regulation 4 of the injury benefits Regulations**

**12.** In regulation 4(6)(b) of the injury benefits Regulations (statutory benefits to be taken into account in assessing scale of benefits)—

- (a) in head (ii) sub-heads B and D shall be omitted;
- (b) the following head shall be inserted after head (v)—
  - “(vi) in the case of any person who is in the employment of an employing authority on or after 1st April 1991—
    - (A) any reduced earnings allowance payable under section 59A of the Social Security Act 1975(12) in respect of the injury or disease;
    - (B) any retirement allowance payable under section 59B of the Social Security Act 1975(13) in respect of the injury or disease.”.

#### **Amendment of regulation 7 of the injury benefits Regulations**

**13.** In regulation 7 of the injury benefits Regulations (widow’s and widower’s allowance)—

- (a) the following paragraph shall be substituted for paragraph (1)—

“7.—(1) Subject to paragraphs (2), (3) and (4) and to regulation 10, there shall be payable to the widow or widower of a person mentioned in regulation 6 an annual

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(12) 1975 c. 14; section 59A was added by the Social Security Act 1986 (c. 50), Schedule 3, paragraph 5.

(13) Section 59B was added by the Social Security Act 1988 (c. 7), section 2.

allowance of the amount, if any, which when added to the amount of any pension payable under the relevant pension scheme in respect of the deceased, to or for the benefit of the widow or widower, will provide an income of 45 per cent of the deceased's average remuneration.”;

- (b) in paragraph (2)—
- (i) for the reference to “3 months” there shall be substituted a reference to “6 months”;
  - and
  - (ii) for the words “his widow” there shall be substituted the words “the widow or widower”;
- (c) in paragraph (4), at the beginning there shall be inserted the words “Where the deceased died before 6th April 1988”.

#### **Amendment of regulation 11 of the injury benefits Regulations**

**14.** In regulation 11(1) of the injury benefits Regulations lump sum payment on death) for the words “one-quarter” there shall be substituted the words “one half”.

#### **Amendment of regulation 20 of the injury benefits Regulations**

- 15.** In regulation 20 of the injury benefits Regulations (determination of questions)—
- (a) after the word “widow” there shall be inserted the word “, widower”;
  - and
  - (b) the words “whose determination shall be final” shall be omitted.

#### **Regulations having retrospective effect**

- 16.—**(1) Regulation 11(a) and (b) of these Regulations shall have effect from 9th October 1974.
- (2) Regulations 9, 10 and 13(b)(ii) and (c) of these Regulations shall have effect from 6th April 1988.
- (3) Regulation 13(a) of these Regulations shall have effect from 11th April 1988.

Signed by authority of the Secretary of State for Health.

10th March 1991

*Stephen Dorrell*  
Parliamentary Under-Secretary of State,  
Department of Health

we consent to the making of these regulations.

10th March 1991

*Sydney Chapman, MP*  
*Irvine Patnick, MP*  
Lords Commissioners of Her Majesty's Treasury

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

These Regulations further amend the National Health Service (Superannuation) Regulations 1980 (“the principal Regulations”), the National Health Service (Compensation for Premature Retirement) Regulations 1981 (“the compensation Regulations”), and the National Health Service (Injury Benefits) Regulations 1974 (“the injury benefits Regulations”).

Regulation 2 amends the principal Regulations by inserting a definition of “Dental Practice Board”, including National Health Service trusts in the definition of “employing authority” and providing for certain bonuses not to be superannuable by excluding them from the definition of “remuneration”.

Regulations 3 and 5 amend the principal Regulations by excluding certain dental practitioners who have received early retirement benefits from accruing further superannuation benefits under the principal Regulations.

Regulation 4 amends the principal Regulations by making provision for the recovery from employing authorities of the costs of paying benefits on early retirement.

Regulation 6 amends the principal Regulations by including payments by the Dental Practice Board in the definition of remuneration.

Regulations 7 and 15 amend the principal Regulations and the injury benefits Regulations respectively by—

- (a) providing that questions arising under those Regulations which concern the rights and liabilities of widowers are to be determined by the Secretary of State;
- (b) deleting the provisions which made decisions of the Secretary of State final.

Regulation 8 amends the compensation Regulations by including National Health Service trusts in the definition of “employing authority” and certain dental practitioners in the definition of “officer”.

Regulations 9 and 10 amend the compensation Regulations so that, in respect of service on or after 6th April 1988, widows and widowers are entitled to similar benefits.

Regulation 11 amends the injury benefits Regulations so that special health authorities and National Health Service trusts are included in the definition of “employing authority”.

Regulation 12 amends the injury benefits Regulations to take into account both reduced earnings allowance (which replaces special hardship allowance) and retirement allowance (which replaces reduced earnings allowance on retirement).

Regulation 13 amends the injury benefits Regulations by removing the requirement that a widower must be incapable, by reason of permanent ill-health, of earning his own living before he may qualify for benefits; by omitting obsolete references to industrial injuries death benefits and by increasing the period of the higher initial allowance from 3 months to 6 months. The amendments relating to widowers apply to persons who became widowers on or after 6th April 1988.

Regulation 14 amends the injury benefits Regulations by increasing any lump sum payable on death from one quarter to one half of average remuneration.

Regulation 16 provides that the following amendments made by these Regulations shall have retrospective effect—

- (a) regulation 11(a) and (b), from 9th October 1974;
- (b) regulations 9, 10 and 13(b)(ii) and (c), from 6th April 1988;

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(c) regulation 13(a), from 11th April 1988.