
STATUTORY INSTRUMENTS

1998 No. 1594

**The National Health Service (Scotland)
(Injury Benefits) Regulations 1998**

PART I

PRELIMINARY

Citation, commencement and effect

1.—(1) These Regulations may be cited as the National Health Service (Scotland) (Injury Benefits) Regulations 1998 and shall come into force on 31st July 1998.

(2) In their application to a person mentioned in regulation 3(1)(e) or (f), these Regulations shall have effect from 1st April 1998.

Interpretation

2.—(1) In these Regulations—

“the 1997 Act” means the National Health Service (Primary Care) Act 1997⁽¹⁾;

“the 1961 Regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1961⁽²⁾;

“the 1980 Regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1980⁽³⁾;

“the Superannuation Scheme Regulations” means the National Health Service Superannuation Scheme (Scotland) Regulations 1995⁽⁴⁾;

“the previous Regulations” means the National Health Service (Scotland) (Injury Benefits) Regulations 1974⁽⁵⁾;

“assistant practitioner” means—

(a) an employee of a medical practitioner, or dental practitioner on the list of a Health Board, 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 for whose employment the consent of the Health Board has been obtained; or

(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—

(1) 1997 c. 46.

(2) S.I. 1961/1398, which was revoked by the National Health Service (Superannuation) (Scotland) Regulations 1980 (S.I. 1980/1177).

(3) S.I. 1980/1177, which was revoked by the National Health Service Superannuation Scheme (Scotland) Regulations 1995 (S.I. 1995/365).

(4) S.I. 1995/365, amended by S.I. 1997/1434 and 1916.

(5) S.I. 1974/1838, amended by S.I. 1986/587 and S.I. 1992/3046.

- (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 A2 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 Secretary of State, have been payable if he were employed whole-time by an employing authority on similar duties);
- 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 1 to the Superannuation 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) applied, or immediately before the date on which his emoluments were reduced, as the case may be, was employed as a specialist registrar, 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 list” means a list prepared in accordance with regulations made under section 25(2)(a) of the National Health Service (Scotland) Act 1978(6);

“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 three 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 Board or Special Health Board established under section 2 the National Health Service (Scotland) Act 1978(7);
- (b) the Common Services Agency for the Scottish Health Service established under section 10 of that Act(8);

(6) 1978 c. 29.

(7) Section 2 was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 28 and Schedules 9 and 10.

(8) Section 10 was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 2 and by the 1990 Act, Schedule 10.

- (c) a National Health Service trust established under section 12A of that Act⁽⁹⁾;
- (d) in respect of employment in a state hospital provided under section 102 of that Act⁽¹⁰⁾, the Secretary of State or, where the hospital is managed on his behalf by a committee constituted under section 91 of the Mental Health (Scotland) Act 1984⁽¹¹⁾, a Health Board or the Common Services Agency, the body so managing it;
- (e) any other body which 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;

“medical list” means a list prepared in accordance with regulations made under section 19(2) (a) of the National Health Service (Scotland) Act 1978;

“personal pension scheme” has the meaning given in section 1 of the Pension Schemes Act 1993⁽¹²⁾;

“pilot scheme” has the meaning given in section 1(1) of the 1997 Act;

“pilot scheme employee” has the meaning given in section 2(3) of the 1997 Act;

“piloted services” has the meaning given in section 1(4) of the 1997 Act;

“practitioner” means—

- (a) a medical practitioner or a dental practitioner on the medical list or, as the case may be, the dental list of a Health Board;
- (b) an assistant practitioner;
- (c) a medical practitioner who is providing piloted services; or
- (d) a medical practitioner who is a pilot scheme employee and
 - (i) whose name appears on the medical list of a Health Board, or
 - (ii) who was an assistant practitioner, prior to the commencement of the pilot scheme;

“relevant pension scheme” means any form of arrangement, whether subsisting by virtue of an Act of Parliament, trust, contract or otherwise for the provision of pension benefits in connection with employment mentioned in regulation 3(1), including a personal pension scheme or the additional pension referred to in section 44(3)(b) of the Social Security Contributions and Benefits Act 1992⁽¹³⁾, but excluding—

- (a) any arrangements for the provision of benefits under legislation relating to social security, other than the said additional pension;
- (b) any arrangement for the provision of benefits paid for by 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⁽¹⁴⁾.

⁽⁹⁾ Section 12A was inserted by the 1990 Act, section 31.

⁽¹⁰⁾ section 102 was substituted by the State Hospitals (Scotland) Act 1994 (c. 16), section 1.

⁽¹¹⁾ 1984 c. 36.

⁽¹²⁾ 1993 c. 48.

⁽¹³⁾ 1992 c. 4.

⁽¹⁴⁾ 1974 c. 9.

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