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STATUTORY INSTRUMENTS

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**1997 No. 646**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service (Injury  
Benefits) Amendment Regulations 1997**

<i>Made</i>	- - - -	<i>5th March 1997</i>
<i>Laid before Parliament</i>		<i>6th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 10(1), (2), (3) and (3A) and 12(1) and (2) 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 retrospective effect**

1. These Regulations may be cited as the National Health Service (Injury Benefits) Amendment Regulations 1997 and, save as hereinafter provided<sup>(4)</sup>, shall have effect from 1st April 1997.

**Interpretation**

2. In these Regulations “the principal Regulations” means the National Health Service (Injury Benefits) Regulations 1995<sup>(5)</sup> and other expressions have the same meaning as in those Regulations.

**Amendment of regulation 2 of the principal Regulations**

3. In regulation 2(1) of the principal Regulations—

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- (1) 1972 c. 11. Section 10(1)(a) was amended by Schedule 5 to the National Health Service Reorganisation Act 1973 (c. 32). Subsection (3A) was inserted by section 4(2) of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
- (2) See section 10(4) of the Superannuation Act 1972.
- (3) See section 10(1) of the Superannuation Act 1972 and article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).
- (4) See section 12(1) of the Superannuation Act 1972 which provides that regulations may be framed so as to have effect from a date earlier than their making.
- (5) S.I. 1995/866.

- (a) in the proviso to the definition of “average remuneration” after the words “senior registrar, registrar,” there shall be inserted the words “specialist registrar,”; and
- (b) after the definition of “practitioner” there shall be inserted the following definition—  
““quarter” means a 3 month period ending on the last day of March, June, September or December.”.

#### **Amendment of regulation 4 of the principal Regulations**

- 4.—(1) In regulation 4(1) of the principal Regulations—
- (a) at the beginning there shall be inserted the words “Subject to paragraph (5),”; and
  - (b) there shall be deleted the words from “, but, in the case of a person to whom paragraph (5) applies,” to the end.
- (2) For regulation 4(5) of the principal Regulations there shall be substituted the following—
- “(5) Where, on or after 1st April 1991, a person to whom regulation 3(1) of these Regulations applies or to whom regulation 3(1) of the previous Regulations applied is or was on leave of absence from an employment mentioned in those regulations with reduced emoluments by reason of the injury or disease, there shall be payable by that person’s employing authority on behalf of the Secretary of State, during or in respect of the period of such leave and without regard to any reduction in the person’s earning ability, an annual allowance of the amount, if any, which when added to the aggregate of—
- (a) the emoluments payable to the person during his leave of absence, and
  - (b) the value, expressed as an annual amount, of any of the pensions and benefits specified in paragraph (6) (including the value of any equivalent benefits payable under the enactments consolidated by the Social Security Contributions and Benefits Act 1992), will provide an income of 85 per cent. of his average remuneration.”.

#### **Insertion of regulation 4A into the principal Regulations**

5. After regulation 4 of the principal Regulations there shall be inserted the following regulation—

##### **“Recovery of costs**

4A.—(1) Where, during the period commencing 1st April 1991 and ending 31st March 1997, a lump sum under regulation 4(9) or 11 of these Regulations or regulation 4(9) or 11 of the previous regulations was paid to or in respect of a person to whom regulation 3(1) of these Regulations applies or, as the case may be, to or in respect of a person to whom regulation 3(1) of the previous Regulations applied, that person’s employing authority shall be liable to pay a contribution to the Secretary of State in accordance with paragraph (4) representing the total amount of that lump sum together with the cost of providing increases to it under Part I of the Pensions (Increase) Act 1971.

(2) Subject to paragraph (3), where, on or after 1st April 1997, a claim is made for an allowance or lump sum under paragraph (2), (3), (4) or (9) of regulation 4, or regulation 7, 8, 9 or 11 by or in respect of a person to whom regulation 3(1) of these Regulations applies, that person’s employing authority shall, on the payment by the Secretary of State pursuant to that claim of the allowance or any part of it, or, as the case may be, of the lump sum, be liable to pay a contribution to the Secretary of State in accordance with paragraph (5) representing—

- (a) the total amount of such allowance or such part, or,

(b) the total amount of such lump sum,  
together with the cost of providing increases to it under Part I of the Pensions (Increase) Act 1971.

(3) Paragraph (2) shall not apply to any claim made on or after 1st April 1997 where that claim is made in respect of a person who dies on or after that date but who was, before that date, in receipt of an allowance or lump sum under paragraph (2), (3), (4) or (9) of regulation 4 or who would, before that date, have received such an allowance or lump sum under any of those paragraphs but for—

- (a) the fact that his earning ability was not permanently reduced by more than 10 per cent. in accordance with the requirements of paragraph (1) of regulation 4; or
- (b) the application of paragraph (4) or (6) of regulation 4 to the calculation of his benefits under that regulation.

(4) Contributions payable to the Secretary of State under paragraph (1) shall be paid not later than one month from the end of the quarter in which the lump sum referred to in that paragraph was paid, or, in any case where that period has expired, within such longer period as the Secretary of State may allow.

(5) Contributions payable to the Secretary of State under paragraph (2) shall be paid not later than one month from the end of the quarter in which the allowance or any part of it, or, as the case may be, the lump sum, referred to in that paragraph was paid.”.

Signed by authority of the Secretary of State for Health.

Department of Health.  
4th March 1997

*Gerald Malone*  
Minister of State,

We consent to the making of these Regulations.

5th March 1997

*Gyles Brandreth*  
*Roger Knapman*  
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 amend the National Health Service (Injury Benefits) Regulations 1995 (“the principal Regulations”).

Regulation 1 provides for citation, commencement and retrospective effect (pursuant to the power in section 12(1) of the Superannuation Act 1972).

Regulation 2 provides for interpretation.

Regulation 3 amends the definition of “average remuneration” in regulation 2(1) of the principal Regulations and inserts a definition of “quarter” into that regulation.

Regulation 4 makes provision in respect of the payment by employing authorities, within the meaning of the principal Regulations, of allowances under regulation 4(5) of those Regulations and under regulation 4(5) of the National Health Service (Injury Benefits) Regulations 1974 (S.I.1974/1547) (“the previous Regulations”) which were revoked by the principal Regulations.

Regulation 5 inserts a new regulation 4A into the principal Regulations which makes provision for the recovery by the Secretary of State of the cost of paying allowances or lump sums under paragraph (2), (3), (4) or (9) of regulation 4 and regulation 7, 8, 9 or 11 of the principal Regulations and paragraph (2), (3), (4) or (9) of regulation 4 and regulation 7, 8, 9 or 11 of the previous Regulations together with the cost of providing increases to such allowances or lump sums under Part I of the Pensions (Increase) Act 1971.

These Regulations do not impose any costs on business.