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STATUTORY INSTRUMENTS

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**1998 No. 1594**

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

**PART IV**

**REVIEW OF ALLOWANCE AND MISCELLANEOUS**

**Review and adjustment of allowance**

**13.**—(1) The Secretary of State shall review the amount of an allowance payable under Part II of these Regulations in the light of—

- (a) a further reduction of the person's earning ability by reason of the injury or disease;
- (b) the commencement or cessation of payment to the person of a benefit mentioned in regulation 4(6)(b), by reason of the injury or disease; or
- (c) the commencement of a pension payable to the person under a relevant pension scheme or an increase in such a pension not being an increase under the Pensions (Increase) Act 1971; and for this purpose such pension shall be deemed to be reduced proportionately by the amount by which an official pension, that began on the date at which the average remuneration used in the calculation of the allowance was calculated, would have been increased under the Pensions (Increase) Act 1971 by the date of the increase or commencement of the first mentioned pension.

(2) A person not entitled to benefits under these Regulations by reason only that his earning ability was not permanently reduced by more than 10 per cent shall be entitled to receive such benefits if, in consequence of a further reduction by reason of the injury or disease, his earning ability is permanently reduced in aggregate by more than 10 per cent, except that such benefits shall not be payable in respect of any period before such further reduction or for a period of more than 13 weeks before the Secretary of State is notified in writing of such further reduction, whichever is the later.

(3) The Secretary of State shall review the amount of an allowance payable under Part III of these Regulations in the light of any reduction in, or the cessation of, a pension under a relevant pension scheme in respect of the deceased payable to the person entitled to such allowance.

(4) Where a person who is entitled to an allowance under Part II again becomes employed in employment mentioned in regulation 3(1) or becomes employed in an employment mentioned in any corresponding provision in force in England and Wales, Northern Ireland or the Isle of Man, then, whilst he continues in such employment, the allowance under Part II shall be abated by any amount by which it would, when aggregated with his relevant income, exceed the amount of his former earnings.

(5) For the purposes of paragraph (4)—

- (a) "relevant income" means the amount of any emoluments payable to the person in question in respect of the further employment plus the amount of any pension payable to him under a relevant pension scheme;

- (b) “former earnings” means, in relation to that person, the average remuneration by reference to which the allowance was determined or the annual rate of his emoluments at the date on which the allowance became payable, whichever is higher, increased by the amount by which a pension beginning on the date on which the allowance became payable would have been increased under Part I of the Pensions (Increase) Act 1971;
  - (c) where the further employment is employment of the type mentioned in regulation 3(1)(c), that person shall be deemed to be in receipt of emoluments equal in amount to those which would have been payable, in the opinion of the Secretary of State, to a person employed whole-time by an employing authority on similar duties.
- (6) Where a person ceased to be employed before 1st January 1993, for the purpose of paragraph (1)(b) of this regulation the benefit mentioned in regulation 4(6)(b)(v) shall be disregarded.