SCOTTISH STATUTORY INSTRUMENTS

2003 No. 517

NATIONAL HEALTH SERVICE

The National Health Service Superannuation Scheme (Scotland) Amendment (No. 3) Regulations 2003

Made - - - -	*15th October 2003*
Laid before the Scottish Parliament - - - -	*6th November 2003*
Coming into force - -	*29th November 2003*

The Scottish Ministers, in exercise of the powers conferred by sections 10 and 12 of, and Schedule 3 to, the Superannuation Act 1972(**1**), and all other powers enabling them in that behalf, after consulting such representatives of persons likely to be affected by these Regulations as appear to be appropriate in accordance with section 10(4) of that Act, and with the consent of the Treasury(**2**), hereby make the following Regulations:

Citation, commencement, effect and extent

1.—(1) These Regulations may be cited as the National Health Service Superannuation Scheme (Scotland) Amendment (No. 3) Regulations 2003 and shall come into force on 29th November 2003 but–

(a) regulation 6 shall have effect from 6th April 2003; and

(b) regulations 7 and 8 shall have effect from 1st April 2003.

(2) These Regulations extend to Scotland only.

Amendment of the National Health Service Superannuation Scheme (Scotland) Regulations 1995

2. The National Health Service Superannuation Scheme (Scotland) Regulations 1995(**3**) shall be amended in accordance with regulations 3 to 8 of these Regulations.

(**1**) 1972 c. 11; sections 10 and 12 were amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), sections 4(2), 8(5) and 10; section 10(6) was amended by the Pension Schemes Act 1993 (c. 48), Schedule 8, paragraph 7; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of article 2 of and Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I.1999/1750).

(**2**) See the Superannuation Act 1972, section 10(1) and Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).

(**3**) S.I. 1995/365, amended by S.I. 1997/1434, 1997/1916, 1998/1593, 1999/443 and 2001/3649, and S.S.I. 2001/437, 2001/465, 2003/55 and 2003/270.

Meaning of pensionable pay

3. For regulation C1(3)(**4**), substitute–

"(3) Subject to paragraph (3AZ), in the case of a member who joined the scheme before 1st June 1989 pensionable pay in excess of the permitted maximum will not be ignored.

(3AZ) In the case of a member who joined the scheme before 1st June 1989 and has a break in pensionable employment on or after that date–

(i) any pensionable pay earned preceding the break in that employment in excess of the permitted maximum will not be ignored;

(ii) any pensionable pay earned after the break in that employment in excess of the permitted maximum will be ignored.".

Payment of lump sum

4. In regulation F5(**5**)–

(a) in paragraph (3)(a) after "notice" insert "in writing" and omit "in accordance with paragraph (3B) below";

(b) in paragraph (3A) after "notice" insert "in writing" and omit "in accordance with paragraphs (3B) and (3C) below";

(c) for paragraph (3B), substitute–

"(3B) Notice given to the Scottish Ministers for the purposes of paragraph (3) or (3A) may, at any time, be revoked in writing."; and

(d) in paragraph (3C), after "shall" insert "only be given by a member who is in pensionable service in the scheme and shall".

Early leavers returning to pensionable employment

5. For regulation L2(2), substitute–

"(2) If a member's pensionable service before and after a break in pensionable employment is treated separately, the member's benefits in respect of each period of pensionable employment shall be calculated–

(a) separately; and

(b) by reference to–

(i) the member's pensionable service before and after a break in pensionable employment as the case may be; and

(ii) the member's final pensionable pay in respect of that particular period,

as if that period had been the member's only period of pensionable employment.".

Maternity leave

6. In regulation P1–

(a) in the title to regulation P1, after "maternity" insert ", paternity and adoption";

(b) in paragraph (1) after "confinement" insert ", or for paternity or adoption leave";

(c) in paragraph (2) after "confinement" insert ", or for paternity or adoption leave"; and

(**4**) Regulation C1(3) was amended by S.I. 1997/1434.
(**5**) Regulation F5 was amended by S.S.I. 2001/437.

(d) in paragraph (3) for "leave under her" substitute ", paternity or adoption leave under the member's".

Officer service treated as practitioner service

7. In Schedule 1 (medical and dental practitioners), in paragraph 9(**6**)–

(a) for sub-paragraph (2), substitute–

"(2) For the purpose of calculating any benefit in respect of officer service that is treated as practitioner service under sub-paragraph (1), the member's pensionable pay in respect of that officer service–

(a) may be disregarded and his uprated earnings increased by the same proportion as his practitioner's service is increased by virtue of the officer service being treated as practitioner service under sub paragraph (1); or

(b) may be treated as pensionable earnings,

whichever is more favourable to him.";

(b) after sub-paragraph (5), insert–

"(5A) Where a member has more than 10 years' officer service before first becoming–

(a) a principal practitioner; or

(b) a practitioner providing piloted services,

the member's officer service before first becoming a principal practitioner or a practitioner providing piloted services may be treated as practitioner service if it would be more favourable to the member.

(5B) For the purposes of calculating any benefits in respect of officer service that is treated as practitioner service under sub-paragraph (5A), the member's pensionable pay in respect of that officer service shall be treated as pensionable earnings.";

(c) after sub-paragraph (6), insert–

"(6A) Subject to sub-paragraph (8), if a member has in total 1 year's officer service or more on the last occasion on which he ceases to be a practitioner before his pension under the scheme becomes payable that officer service may be treated as practitioner service if it would be more favourable to him.

(6B) Any officer service which is treated as practitioner service by virtue of sub-paragraph (6) or (6A) shall include any periods of officer service which are concurrent with periods of practitioner service.";

(d) in sub-paragraph (7), after "sub-paragraph (6)" insert "or (6A)";

(e) in sub-paragraph (8)–

(i) after "sub-paragraph (1)", wherever it occurs, insert " or (5A)";

(ii) in the first two places where "sub-paragraph (6)" occurs, substitute "sub paragraphs (6) and (6A)"; and

(iii) after "sub-paragraph (6)", where it last occurs, insert "or (6A)"; and

(f) in sub-paragraph 11, for "paragraph (6) or paragraph (9)" substitute "sub-paragraph (6), (6A) or (9)".

(**6**) Paragraph 9 was amended by S.S.I. 2003/55.