SCOTTISH STATUTORY INSTRUMENTS

2003 No. 55

NATIONAL HEALTH SERVICE

The National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2003

Made - - - -	*30th January 2003*
Laid before Scottish Parliament - - - - - -	*7th February 2003*
Coming into force - -	*1st March 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 of 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, interpretation and extent

1.—(1) These Regulations may be cited as the National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2003 and shall come into force on 1st March 2003 but–

(a) regulations 3(b) and (c) and 14 to 21 shall have effect from 1st April 2001;

(b) regulations 5(b)and (c), 7 to 10, 11(2) and (3), and 12 shall have effect from 5th April 2002; and

(c) regulations 5(a), 6 and 11(1) shall have effect from 25th April 2000.

(2) In these Regulations–

"the 1978 Act" means the National Health Service (Scotland) Act 1978(**3**);

"the 1995 Regulations" means the National Health Service Superannuation Scheme (Scotland) Regulations 1995(**4**).

(3) These Regulations extend to Scotland only.

(**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 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**) 1978 c. 29.

(**4**) S.I. 1995/365, amended by S.I. 1997/1434, 1997/1916, 1998/1593 and 1999/443, and S.S.I.2001/437 and 2001/465.

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

2. The 1995 Regulations shall be amended in accordance with regulations 3 to 21 of these Regulations.

Interpretation

3. In regulation A2 (interpretation)–

(a) in the definition of "employing authority" after paragraph (c) insert–

"(cc) the Mental Welfare Commission established under section 2 of the Mental Health (Scotland) Act 1984(**5**);".

(b) for the definition of "practitioner" substitute–

""practitioner"	(a) a registered medical practitioner, other than a GP registrar, who is an assistant practitioner, an associate general practitioner, a locum practitioner, a principal practitioner or a person who is treated as a practitioner under regulation R13 (participators in pilot schemes), or (b) a registered dentist or a person treated as a practitioner under regulation R13, but excluding a person (other than an associate general practitioner) who is paid wholly by way of salary by a National Health Service Trust, a Primary Care NHS Trust or a Health Board or a person treated as an officer under regulation R13;".

(c) the following definitions are inserted in alphabetical order at the appropriate places–

""assistant practitioner"	The meaning given in paragraph 1 of Schedule 1;",
""associate general practitioner"	The meaning given in paragraph 1 of Schedule 1;",
""locum practitioner"	The meaning given in paragraph 1 of Schedule 1;",
""principal practitioner"	The meaning given in paragraph 1 of Schedule 1;".

(d) the definition of "trainee practitioner" is omitted and after the definition of "final year's pensionable pay" there is inserted–

(**5**) 1984 c. 36.

""GP registrar"	A "General Practice (GP) Registrar" as defined in the National Health Service (General Medical Services) (Scotland) Regulations 1995 (a doctor who is being trained in general practice by a practitioner whose name is included in a medical list) (**6**);"

Membership of the Scheme

4. In regulation B1(1)(b) for "trainee practitioners" substitute "GP registrars".

Meaning of "qualifying service"

5. In regulation C3 (meaning of "qualifying service")–

(a) in paragraph (1)(b) after "a personal pension scheme," omit "," and insert "or", and after "buy-out policy" delete "or self employed pension arrangement"(**7**);

(b) after paragraph (1)(b) insert–

"(ba) in the case of a person who–

(i) has become a member on the transfer of his employment to a new employer as a result of a transfer of an undertaking to that employer, and

(ii) has rights under another occupational pension scheme to which he was eligible to belong in his former employment in respect of which no transfer payment has been accepted under regulations N1(4) or N4,

the period of employment that qualified the member for those rights;"; and

(c) after paragraph (4) insert–

"(4A) Where a member who is employed on a casual basis–

(a) ceases to pay contributions because of a break in his pensionable employment of a period not exceeding three months, and

(b) re-enters pensionable employment on the same basis after the break,

for the purposes of these Regulations he is treated as continuing to be in qualifying service (but not pensionable service) during the break, and as not being required to rejoin the scheme when he re-enters pensionable employment.".

Part M Transfer Arrangements And Buy-Outs

6.—(1) In regulations M1(2)(b) and (3), M3(2) and M5(3)(b) omit "or self employed pension arrangement" in each place where they occur.

(2) In regulations M1(4) and M2(2) omit ", personal pension scheme or self-employed pension arrangement".

(**6**) S.I. 1995/416, as amended by The National Health Service (General Medical Services) (Scotland) Amendment Regulations 1998 (S.I.1998/4), which substituted "General Practice (GP) Registrar" for "trainee medical practitioner". "Medical List" is defined in regulation 2(1) of those Regulations.

(**7**) Section 96(2)(a)(iii) of the Pension Schemes Act 1993 (c. 48) was amended by paragraph 3(2) of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c. 30) extending the definition of personal pension scheme. References to "self employed pension arrangements" ceased to have effect from 25th April 2000.

Member's rights to transfer or buy-out

7. In regulation M1(1) omit "with a preserved pension before reaching age 60, or age 59 where paragraph (3) applies,".

8. After regulation M1(1) insert–

"(1A) Paragraph (1) only applies if the member–

(a) leaves pensionable employment with a preserved pension before reaching age 60, or age 59 where paragraph (3)(b) applies; or

(b) leaves pensionable employment on the transfer of his employment to a new employer as a result of a transfer of an undertaking to that employer.".

Exercising a right to transfer or buy-out

9. After regulation M2(4) insert–

"(4A) Paragraphs (2) or (3) of this Regulation do not apply if the member exercises the right to require a transfer or buy-out on the transfer of his employment to a new employer as a result of a transfer of an undertaking to that employer.".

Transfers in respect of more than one member

10. For regulation M6 substitute–

"**Special terms for transfers out (bulk transfers etc.)**

M6.—(1) If one or more members ("the transferring members")–

(a) leave pensionable employment,

(b) join another occupational pension scheme, and

(c) exercise a right to transfer to that scheme under regulation M1 (member's right to transfer or buy-out),

the Scottish Ministers may, after taking advice from the Government Actuary, make a single transfer payment to that scheme in respect of the transferring members.

(2) The Scottish Ministers shall calculate the amount of any transfer payment paid under this regulation after taking advice from the Government Actuary.".

Member's right to transfer accrued rights to benefits to the scheme

11.—(1) In regulation N1(1) omit ", a self-employed pension arrangement".

(2) In regulation N1(3) at the beginning of paragraph (a) insert "except where paragraph (3A) applies".

(3) After regulation N1(3) insert–

"(3A) This paragraph applies where the member's employment is transferred to an employing authority as a result of a transfer of an undertaking to that employing authority.".

Transfers in respect of more than one member

12. For regulation N4 substitute–

"**Special terms for transfers in (bulk transfers etc.)**

N4.—(1) This regulation applies where one or more members of another occupational pension scheme ("the transferring members")–

(a) cease to be in pensionable employment under that scheme,

(b) join this scheme, and

(c) consent in writing to a transfer payment being accepted in respect of them and pensionable service being credited to them as mentioned in paragraphs (2) and (3).

(2) The Scottish Ministers may, after taking advice from the Government Actuary, accept a single transfer payment in respect of the transferring members.

(3) Where such a transfer payment is accepted, each of the transferring members shall be credited with such additional period of pensionable service as the Scottish Ministers determine to be appropriate after taking advice from the Government Actuary.".

Medical and dental practitioners and trainee practitioners

13. In regulation R1(2) for "trainee practitioners" substitute "GP registrars".

Amendments to Schedule 1

14. Schedule 1 (medical and dental practitioners) is amended in accordance with regulations 15 to 21.

Additional definitions used in Schedule 1

15. In paragraph 1–

(a) the following definitions are inserted in alphabetical order at the appropriate places–

""locum practitioner" means a registered medical practitioner other than a GP registrar who–

(a) is not a principal practitioner, an associate general practitioner, an assistant practitioner or a person who is treated as a practitioner under regulation R13 (participators in pilot schemes),

(b) is either–

(i) included in a supplementary list prepared by a Health Board or Primary Care NHS Trust under section 24B of the 1978 Act(**8**) of persons approved by the Health Board or Trust for the purpose of assisting in the provision of general medical services, or

(ii) is included in a services list under section 17EA of the 1978 Act(**9**) and named as a performer of personal medical services in an agreement made under section 2 of the National Health Service Primary Care Act 1997, and

(c) is engaged under a contract for services with another practitioner, otherwise than in pursuance of a commercial arrangement with an agent, to deputise or assist in the provision of general medical services or personal medical services;"

(**8**) Section 24B was inserted by section 18(2) of the Community Care and Health (Scotland) Act 2002 (asp 5).
(**9**) 1978 c. 29. Section 17EA was inserted by section 18(1) of the Community Care and Health (Scotland) Act 2002 (asp 5).