



SCOTTISH PUBLIC PENSIONS AGENCY

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Superannuation (Health Service) Circular No 8/2003

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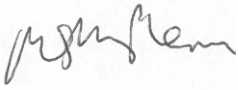
Dear Sir or Madam

NATIONAL HEALTH SERVICE (SCOTLAND) COMPENSATION FOR PREMATURE RETIREMENT

1. This Circular provides information about the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003 (Scottish Statutory Instrument 2003 No. 344), which come into force on 30 September 2003.
2. These Regulations revoke and replace the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 1981, as amended. The primary purpose is to up-date and clarify the provisions, rather than to introduce any significant changes.
3. As with the 1981 Regulations, the new provisions govern the payment of compensation to persons who have been employed in the NHS in Scotland, who have been in the NHS Superannuation Scheme for at least 5 years, and who have been prematurely retired at the age of 50 or over. The Scottish Ministers must be satisfied that the retirement was either as a result of redundancy or in the interests of the efficiency of the service. The compensation takes the form of an annual allowance and, in most cases, a lump sum. Both these types of payment are calculated by firstly crediting the officer with an additional period of service (up to 10 years, depending on the amount of pensionable service which he or she has in the Superannuation Scheme). The annual allowance and lump sum is then calculated in a similar way to the calculation of pension and lump sum under the Superannuation Scheme, but based on the additional service credited to the officer. *[More information on the provisions is given in the attached **Appendix**.]*
4. Although in practice the compensation payments are arranged by this Agency, the cost is recovered from the relevant employers.

5. Copies of the Regulations have been supplied to Trusts and Health Boards and further copies can be purchased from The Stationery Office. They may also be accessed on the HMSO website - www.hmso.gov.uk. Additional copies of this Circular and its Appendix can be obtained from SPPA by contacting Mrs Sharon Liptrott on 01896 893228.

Yours faithfully



Malcolm MacPherson
Policy Branch

NATIONAL HEALTH SERVICE (SCOTLAND)
COMPENSATION FOR PREMATURE RETIREMENT

This Appendix gives a short summary of the provisions of the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003 (Scottish Statutory Instrument 2003 No 344).

[Please note that this is simply intended as general guidance, and does not in any way constitute a formal interpretation of the statutory provisions.]

- 1. Regulation 1** is formal. The delay between the Regulations being made, and their coming into force, was due to the Parliamentary recess.
- 2. Regulation 2** defines certain terms which are used in the Regulations. These definitions generally mirror (but up-date) terms found in the previous Compensation Regulations. One of the most important terms defined is "the Superannuation Scheme Regulations", as these are referred to frequently in the body of the Instrument. The definitions of "officer" and "employing authority" are also important, in relation to the coverage of the Regulations.
- 3. Regulation 3** provides that the persons eligible for compensation are those officers who, on ceasing to work for an employing authority, become entitled to benefits under Regulation E3 of the Superannuation Scheme Regulations. [Regulation E3 provides for a member of the Superannuation Scheme to receive an immediate pension if he or she has at least 5 years' qualifying service in the Superannuation Scheme, has reached the age of 50, and the Scottish Ministers are satisfied that the termination of employment was due to redundancy or was in the interests of the efficiency of the service in which he or she is employed.]
- 4. Regulation 4** provides for the payment of compensation in the form of (a) an annual allowance, and (b) a lump sum. [In almost all cases, both forms of compensation will be payable.] The amount of each form of compensation is based on the crediting of additional service, and is arrived at by analogy with the pension and lump sum which the person would have received for that service under the NHS Superannuation Scheme.
- 5. Regulation 5** basically provides for an eligible person to be credited with a period of service which is additional to the service which he or she has accrued in the Superannuation Scheme. The maximum period of additional service is 10 years, or whatever period would bring the person's total service to the lesser of (a) 40 years, or (b) what he or she could have accrued by retirement age.
- 6. Regulation 6** provides for the detailed calculation of the person's annual allowance and lump sum to be done in the same way as the calculation of his or her benefits under the NHS Superannuation Scheme. [A pension under that Scheme is based on one-eightieth of final pay for each year of service, with the lump sum normally 3 times the pension.]

Regulations 4, 5 and 6 have been noticeably re-worded (in comparison to the wording found in the previous (1981) Compensation Regulations). However, the primary intention of these changes is to clarify, rather than to introduce substantive amendments to, the compensation arrangements.

- 7. Regulation 7** allows a person to surrender to a spouse part of the annual allowance, in circumstances where a similar partial surrender of pension is possible under the NHS Superannuation Scheme.
- 8. Regulation 8** makes provision for compensation to be payable to the widow(er), child or other dependant of a person who has been awarded compensation and has died. Basically, the test is whether the dependant is entitled to benefit under the NHS Superannuation Scheme upon the person's death. The amount of the compensation is calculated as if the original person's compensation had been a pension.
- 9. Regulation 9** provides for a "compensation" lump sum to be payable in circumstances where a "lump sum on death" is payable under the NHS Superannuation Scheme. The recipient is the same person as under the Superannuation Scheme.
- 10. Regulation 10** pertains to the re-employment, and cessation of such re-employment, of a person who has been awarded compensation. In such circumstances, the annual allowance under the Compensation Regulations may fall to be adjusted. **Regulation 11** also provides for the possible reduction of a person's annual allowance, on return to NHS employment.
- 11. Regulation 12** requires recipients of compensation to furnish relevant documents or other information, and **Regulation 13** prevents compensation being assigned (but with a specific reference to bankruptcy).
- 12. Regulation 14** allows, on the death of a person receiving compensation, the payment of certain sums without requiring proof of title.
- 13. Regulation 15** gives the Scottish Ministers the right to determine questions regarding a person's rights or liabilities.
- 14. Regulation 16**, and **Schedule 2**, revokes the previous Compensation Regulations. The saving of 1981 Regulation 5(1) and 5(4) is because these paragraphs confer a possibly advantageous "additional service" calculation on certain persons with service prior to November 1980.
- 15. Schedule 1** relates to the "further employment" provisions of Regulation 10 and sets out how the reduction of compensation is to be calculated.

*Scottish Public Pensions Agency
July 2003*