

## ANNEX

### Overview

NHS pension benefits on redundancy are provided by two separate sets of regulations.

**The NHS Superannuation (Scotland) Scheme Regulations 1995** (as amended) mainly cover:

- The qualifying criteria for the payment of a basic pension, and
- the cost to NHS employers of both the basic pension up to normal retirement age and the extra pension that results from additional membership credited on redundancy

**The National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003** (as amended) mainly cover:

- The amount of additional membership to be credited on redundancy

Hence, the amending regulations span both sets of regulations:

**The Superannuation Scheme** amendments include:

- The qualifying criteria and new redundancy pension provisions for new starters on or after 2 December 2006. These will also apply to all NHS employees over minimum retirement age who are made redundant after transition ends on 1 October 2011.
- The qualifying criteria for transitional arrangements
- The choice between new or old rules for those covered by transitional arrangements (who are also able to meet the qualifying criteria for the new arrangements)
- The position of 'Special Classes' of members who are able to retire at age 55

**The Compensation Scheme** amendments include:

- The adjustment to the amount of additional membership credited under the transitional arrangements for redundancies occurring between 2 December 2006 and 30 June 2007

- The further adjustment to the amount of additional membership credited under the transitional arrangements for redundancies occurring between 1 July 2007 and 30 September 2011

## Amendments in detail

### **Citation and commencement**

#### **Regulation 1** –

This paragraph names the amending regulations as:

“The National Health Service (Superannuation Scheme and Compensation for Premature Retirement) (Scotland) Amendment (No.2) Regulations 2006”

The amending regulations come into force on 2 December 2006.

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

#### **Regulation 2**

Regulation **2(2)** inserts references to new regulation “E3A” (new redundancy provisions) where existing references to regulation “E3” (current and transitional provisions) are found in the superannuation scheme regulations.

Regulation **2(3)**: introduces a replacement for the existing regulation “E3” and inserts new regulations “E3A”, “E3B” and “E3C” into the Superannuation Scheme regulations.

**E3 Transition:** The changes to regulation “E3” include the introduction of qualifying criteria for treatment under the transitional arrangements. The additional qualifying criteria ensure that those who have either continuity of employment on 1 October 2006 or continuity of NHS Superannuation Scheme membership on or after 2 December 2006 will have access to transitional arrangements until they end on 30 September 2011.

This means that those who meet all the qualifying criteria of revised regulation “E3” will also qualify for assessment for ‘additional membership’ known as ‘enhancements’ under the revised Compensation Scheme regulations. (See page 4 amendments to regulation 5)

Revised regulation “E3” also clarifies the position of members who refuse suitable alternative employment (pension benefits will not be payable), and practitioners and non-GP providers (who are not covered by the redundancy provisions).

The current requirements for members to be over minimum pension age (currently 50) and have five years qualifying service in order to qualify for a redundancy pension are retained.

**E3A New starters and post transition:** New regulation “E3A” details the qualifying criteria and the pension provision on redundancy for members who are over minimum pension age and are either:

- New starters on or after 2 December 2006
- A scheme member who is made redundant on or after 1 October 2011

**Key features are:**

- To qualify, members must have at least two years continuous employment, and two years qualifying pension scheme membership
- The pension and lump sum will be based on membership up to the date of redundancy only with no additional membership due under the Compensation regulations. (Although this is not explicit in regulation E3A, the Compensation Regulations only allow ‘additional membership’ to be given where benefits are paid under Regulation E3)
- To reflect the choice qualifying members will have between a lump sum payment from their employer OR pension scheme benefits, members will be required to ‘claim’ their redundancy pension within two months of employment ending.
- To further reflect this choice, new regulation “E3A(5)” provides for the reduction of the pension (potentially to nil) in the event that either both payments are made or the lump sum payment from the employer has not been sufficiently reduced to take account of the cost of redundancy benefits.

New regulation “E3A” also clarifies the position of members who refuse suitable alternative employment (pension benefits will not be payable), and practitioners and non-GP providers (who are not covered by the redundancy provisions).

**E3B Choice between ‘new or old’:** New regulation “E3B” permits members who meet the qualifying criteria for both the transitional arrangements (E3) and the new redundancy provisions (E3A) to choose which of these they wish to apply in their case. A notification confirming their choice is required within 40 days of employment terminating. Where a notification has not been received within 60 days, the member will be assessed under transitional arrangements.

**E3C Special Classes:** New regulation “E3C” addresses the position of qualifying nurses and mental health officers **aged 55 and over** who have retained the special right to a normal retirement age of 55. Under the new redundancy arrangements, from age 55, the value of a redundancy pension for members in this group will be equal to the value of their normal retirement pension.

The amendment ensures that where redundancy happens on or after 1 October 2011, members over 55 who qualify for a normal retirement age of 55, may choose to take a lump sum payment from their employer on redundancy and make a claim for a normal pension on the grounds of age. A male nurse who qualifies for a normal retirement age of 55 for membership from 1990 onwards will also be able to claim an actuarially reduced pension (E5) for membership up to that date.

### **Amendments to the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003**

#### **Regulation 3**

The new regulation 3 confirms access to additional membership to members who are covered by transitional arrangements.

Regulation 5 deals with the amount of additional membership to be given. This depends on a member’s length of membership and proximity to contractual retirement age.

There is also a limit in the number of years that may count overall of 40.

The amendment to regulation 5 introduces the arrangements for adjusting the amount of additional membership due under the two transitional arrangements.

The first arrangement (new regulation 5(1A)) covers redundancies from

- **2 December 2006 to 30 June 2007.**

Qualifying members made redundant between these dates will have their entitlement to additional membership assessed as now, but based on their total membership and their proximity to contractual retirement age on 30 September 2006.

The amount of additional membership this assessment produces will then be adjusted by reducing it by a period equal to service from 1 October 2006 to the day on which the member will become entitled to redundancy benefits.

The second arrangement (new regulation 5(1B)) covers redundancies from

- **1 July 2007 to 30 September 2011.**

Qualifying members made redundant between these dates will also have their entitlement to additional membership assessed and adjusted as described above for redundancies between 2 December 2006 and 30 June 2007.

In addition, where the initial assessment has resulted in more than five years additional membership, a further reduction will apply. The further reduction will be calculated by reducing the amount of additional membership over five years by  $1/60^{\text{th}}$  for each complete calendar month from 1 October 2006 to the day on which the member becomes entitled to redundancy benefits.