

Superannuation (Health Service) Circular No 8/2005

NHS and other participating employers
NHS Trades Unions and Staff Associations

7 Tweedside Park
Tweedbank
Galashiels TD1 3TE
<http://www.sppa.gov.uk>

Telephone: 01896 893100
Fax: 01896 893230
SPPA.NHS@scotland.gsi.gov.uk

5 December 2005

Dear Sir or Madam

NATIONAL HEALTH SERVICE SUPERANNUATION SCHEME (SCOTLAND) CHANGES TO THE SCHEME

1. This Circular provides information about changes to be made to the Scheme by the National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2005 (Scottish Statutory Instrument 2005 No.512), which comes into force on 21 November 2005.

2. These Regulations amend the National Health Service Superannuation Scheme (Scotland) Regulations 1995, The National Health Service (Scotland) (Injury Benefits) Regulations 1998 and the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003. The main changes are summarised below but more detailed information is given in **Appendix A**, attached. **Appendix B**, also attached, constitutes a **Notice to Staff** and, in accordance with the requirements of the Occupational Pensions Schemes (Disclosure of Information) Regulations 1996, **should be brought to the attention of all employees.**

3. The main changes are:-

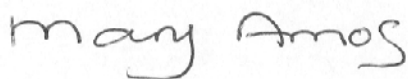
- The definitions of all practitioners are amended;
- The definition of pensionable earnings is extended to include all NHS work carried out under a contract for services with an NHS employing authority;
- Certain not for profit organisations who provide NHS out of hours services are now able to participate in the superannuation scheme and are therefore legislated for in the amended regulations.
- The superannuation scheme and injury benefit scheme have been extended to include non-clinical partners in a practice.
- The Regulations have been amended to take account of the ending of medical pilot schemes.
- Regulations have been incorporated to provide that the Scottish Ministers may direct that a widow, widower or other dependant forfeit some or all of the benefits paid in respect of a

superannuation scheme member, should they be convicted of the unlawful killing of that member.

- These amendment regulations also provide for the dissolution of NHS Trusts and make minor and consequential amendments.

4. Copies of the Amendment Regulations have been supplied to Health Boards and have been placed on the SPPA website at www.sppa.gov.uk. Further copies can be accessed from the Office of the Public Sector Information website at: <http://www.opsi.gov.uk/legislation/scotland/ssi2005/20050512.htm>. Additional copies of this Circular and its Appendices can be obtained from SPPA by contacting Mrs Sharon Liptrott on 01896 893228.

Yours faithfully



MARY AMOS
Policy Manager, NHSS

Appendix A

Superannuation (Health Service) Circular No. 8/2005

NATIONAL HEALTH SERVICE SUPERANNUATION (SCOTLAND), INJURY BENEFITS AND COMPENSATION - CHANGES TO THE SCHEME

This appendix describes in more detail the amendments made to The National Health Service Superannuation Scheme (Scotland) Regulations 1995, The National Health Service (Injury Benefit) (Scotland) Regulations 1998 and the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003 by the National Health Service Superannuation Scheme (Scotland) Amendment Regulations 2005 (Scottish Statutory Instrument 2005 No.512)

1. Regulations 1-4 are formal.
2. Regulations 7, 13, 14, 18, 23, 28 and 30 to 34 amend provisions in the NHS Scheme Regulations, the Injury Benefits Scheme Regulations and Compensation Scheme Regulations to remove references to Primary Care NHS Trusts in Scotland. NHS Trusts in Scotland were dissolved by the National Health Service Reform (Scotland) Act 2004 (asp 7).
3. Regulations 5 and 18 further amend provisions in the NHS Scheme Regulations to remove references to medical pilot schemes in NHS Scotland, which have now ended and been replaced by the new arrangements for general medical services.
4. Regulation 5 amends regulation A2 (Interpretation) of the NHS Scheme Regulations to include new definitions and to amend existing definitions relating to the types of medical services provided and the persons or bodies who provide them. These are necessary as a result of the introduction of the new contract for the provision of general medical services.
5. Regulation 6 inserts a new regulation A3 (Approved Out of Hours (OOH) providers) which outlines the conditions which have to be satisfied before an OOH provider can become an employing authority under the terms of the NHS Scheme Regulations. It also deals with the date from which an approved body can obtain the status.
6. Regulation 8 amends regulation B4 (Opting out of the scheme) of the NHS Scheme Regulations to enable an employee of an OOH provider that has retrospectively been approved as an employing authority under the terms of the Scheme to opt out of the Scheme during the retrospective period. It also clarifies the opting out process for employees of other employing authorities.
7. Regulation 9 amends regulation B5 (Rejoining the scheme) to provide for employees of an OOH provider that has been approved retrospectively as an NHS employing authority under the terms of the Scheme to join or rejoin during that retrospective period.
8. Regulation 10 amends regulation C1 (Meaning of “pensionable pay”) by substituting a new definition of pensionable pay, which includes provisions for non GP providers.
9. Regulation 11 amends regulation D1 (Contributions by members) by inserting a new paragraph which provides that should an employing authority fail to deduct a member’s contributions, the Scottish Ministers can recover the unpaid contributions from the member’s benefits should it be in member’s best interests, and should they agree to the deduction.
10. Regulation 12 amends regulation D2 (Contributions and other payments by employing authorities) to reflect the repeal and re-enactment of the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 1981 (S.I. 1981/1785) by the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003. It also inserts a new paragraph (7) which provides that in circumstances where certain employing authorities who have failed to pay or remit contributions to the Scheme in the past may be required to have in force a guarantee, bond or indemnity in respect of future contributions.

11. Regulation 15 amends regulation E6 (Preserved pension) to remove the overriding limit in respect of the lump sum which may be payable in order to discharge liability for a preserved pension under the Scheme.
12. Regulations 16 and 19 amend regulations F5 (Payment of lump sum) and T6 (Loss of rights to benefits) respectively to provide that Scottish Ministers may direct that a widow, widower, dependant or nominated person forfeit benefits paid by the Scheme in respect of the death of a member, should the aforementioned beneficiaries be convicted of the unlawful killing of that member. Where a lump sum on death benefit is forfeited, that lump sum will be paid to the member's personal representative.
13. Regulation 17 amends regulation R1 (Medical and dental practitioners and trainee practitioners) of the NHS scheme Regulations to provide that non GP providers can access the Scheme from 1st April 2004, on the basis of a whole time officer.
14. Regulation 20 amends regulation U3 (Accounts and actuarial reports) of the NHS Scheme Regulations, to change the scheme valuation cycle to from 5 years to 4 years from 31st March 2003 and also to require certain employing authorities to provide a certificate of pensionable earnings within 2 months of the end of each financial year.
15. Regulation 21 provides for the amendment of Schedule 1 of the NHS Scheme Regulations and regulation 22 amends paragraph 1 (Additional definitions used in this Schedule) to include new definitions and to amend existing definitions necessary as a result of the introduction of the new contract for the provision of general medical services.
16. Regulation 23 makes minor amendments to paragraph 2 of Schedule 1 (Application of Regulations with modifications) to take account of the new contract for the provision of general medical services and to remove references to NHS Trusts.
17. Regulation 24 amends paragraph 3 of Schedule 1 (Meaning of "pensionable earnings") to re-define what constitutes pensionable earnings for principal practitioners and for non GP providers.
18. Regulation 25 replaces paragraph 4 of Schedule 1 (Calculating "pensionable earnings" of practitioners in partnership) to take account of the introduction of non GP providers to the Scheme by providing for the calculation of pensionable earnings in a practice either with or without a non GP provider.
19. Regulation 26 makes consequential amendments in respect of elections on profit sharing to paragraph 5 of Schedule 1 (Election relating to calculation of pensionable earnings) to take account of the introduction of non GP providers to the Scheme.
20. Regulation 27 amends paragraph 6 of Schedule 1 (Meaning of "pensionable earnings in relation to other practitioners) to re-define pensionable earnings for practitioners other than principal practitioners, to take account of the new contract for the provision of general medical services.
21. Regulation 29 inserts a new paragraph 23 into Schedule 1. This paragraph operates to modify regulation U3 (Accounts and actuarial reports) in the case of practitioners and non GP providers.
22. Regulation 30 amends the regulation 2 (Interpretation) of the Injury Benefit Scheme Regulations to include new definitions and to amend existing definitions necessary as a result of the introduction of the new contract for the provision of general medical services.
23. Regulation 31 amends regulation 3 (Persons to whom regulation apply) of the Injury Benefit Scheme Regulations to extend the Regulations to non GP providers.
24. Regulation 32 amends regulation 4A (recovery of costs) of the Injury Benefit Scheme Regulations in order to apply it to non GP providers and a person providing section 17C agreements as if they were whole time officers of the relevant Health Board.

Scottish Public Pensions Agency
29 November 2005

Appendix B

Superannuation (Health Service) Circular No.8/2005

THIS NOTICE INFORMS STAFF ABOUT IMPORTANT INFORMATION WITH REGARD TO CHANGES TO THE NHS SUPERANNUATION SCHEME (SCOTLAND) REGULATIONS 1995, THE NHS (INJURY BENEFITS) (SCOTLAND) REGULATIONS 1998 AND THE NHS (COMPENSATION FOR PREMATURE RETIREMENT) (SCOTLAND) REGULATIONS 2003

The Regulations that set out the NHS Superannuation Scheme, the injury benefits Scheme and the compensation for premature retirement scheme in Scotland have been amended by the National Health Service Superannuation Scheme (Scotland) Amendment Regulations No. 8 2005 (Scottish Statutory Instrument 2005 No.512) which come into force on 21 November 2005. This notice is designed to inform NHS staff about these changes.

Briefly the main changes are that-

- The definitions of all practitioners are amended;
- The definition of pensionable earnings is extended to include all NHS work carried out under a contract for services with an NHS employing authority;
- Certain not for profit organisations who provide NHS out of hours services are now able to participate in the superannuation scheme and are therefore legislated for in the amended regulations.
- The superannuation scheme and injury benefit scheme have been extended to include non-clinical partners in a practice.
- The Regulations have been amended to take account of the ending of medical pilot schemes.
- Regulations have been incorporated to provide that the Scottish Ministers may direct that a widow, widower or other dependant forfeit some or all of the benefits paid in respect of a superannuation scheme member, should they be convicted of the unlawful killing of that member.
- These amendment regulations also provide for the dissolution of NHS Trusts and make minor and consequential amendments

1. These changes will implement the agreement reached in the new contract for the provision of general medical services (“GMS”) and take account of the establishment of substantive agreements under section 17C of the National Health Service (Scotland) Act 1978 (“section 17C agreements”), which replaced ‘Personal Medical Services’ pilot schemes from 1 April 2004. The changes also take account of direct provision arrangements under section 2C of the National Health Service (Scotland) Act 1978 (“section 2C arrangements”). As a consequence of these new contracts a number of definitions relating to practitioners and employing authorities etc have been amended in the regulations.

2. In line with these new arrangements there will also be a new, broader definition of pensionable earnings which will apply to all medical GMS, section 17C agreement and section 2C arrangement practitioners who are held on a performers list maintained by a Health Board. (The new definition will not however apply to GP locums) This definition replaces the existing one for all NHS earnings with effect from 1st April 2004 and is based on an assessment of actual pensionable earnings, after the deduction of expenses, at an individual practice level. These earnings include:

- Delivery of NHS services by a GMS, section 17C agreement or section 2C arrangement practitioner;

- Provision of NHS services by a GMS, section 17C agreement practitioner, subcontracted directly from a GMS or section 17C agreement provider;
- NHS board or advisory work carried out by a principal or assistant practitioner on behalf of an NHS employing authority, and which is paid for by that authority;
- NHS work by a GMS, section 17C agreement or section 2C arrangement practitioner under collaborative agreements with local authorities, paid for by an NHS employing authority;
- Practice based training of medical students, undergraduates, vocational and postgraduate training, funded through national educational and training budgets or otherwise;
- GMS or section 17C agreement practitioner certification;
- NHS services provided by an approved out of hours provider; and
- Payments under such schemes as NHS quality, golden hello, GP retainer, and seniority payments or equivalent arrangements through section 17C agreements or section 2C arrangements

The expenses element of the definition of pensionable earnings includes the cost of staff and materials and sub-contracted work.

3. In new GMS and section 17C agreements, all NHS work performed by GPs from 1 April 2004 on behalf of their GMS or section 17C agreement practice, will be pensionable in the NHS Scheme by means of interim employee and employer deductions from their monthly payments of practice global sum.

SPPA Operations Branch will in the future release a circular including the end of year certificate with attached guidance and provide information covering the flow of pensionable information to the Agency.

4. After 1 April 2004 GMS, practices were given the option to opt out of providing cover outwith normal working and therefore most Health Boards are now providing this cover. There is also provision made whereby they can sub contract the services to a private limited company. Treasury easements mean that certain of types of limited companies who provide out of hours services can now access the scheme, which will allow GPs and staff employed by them to superannuate earnings. The limited companies permitted to join the scheme are described under the terms of the new regulation A3, which will be introduced by amending regulation 6. This new regulation also outlines the process whereby the provider can apply for access, and if that is given, the date on which access will take effect. Regulation 8 details the provisions for employees of these limited companies to opt out and opt back in to the NHS Scheme.

5. From 1 April 2004 non clinical partners in GP practices have been allowed to join the NHS Scheme, with benefits accrued on a whole time officer basis. These are defined in the regulations as “non GP providers.”

6. All references to NHS Trusts have been removed from the Regulations as NHS Trusts no longer exist and their functions have been subsumed by Health Boards.