

SECTION 45ARRANGEMENTS FOR REDUNDANCY PAYMENTS

SCOPE

1. These arrangements apply to employees who, having been employed for the minimum qualifying period of reckonable service (as defined in paragraph 2.2) in the National Health Service in Great Britain (or previously in Northern Ireland), are dismissed by reason of redundancy, which expression includes events described in section 81(2) of the Employment Protection (Consolidation) Act 1978, and premature retirement on organisational change under paragraphs 1(iii), 6, 7 and 8 of the agreement on Premature Payment of Superannuation and Compensation Benefits (ss Section 46). The minimum qualifying period is 104 weeks continuous service whole-time or part-time.

2. When considering redundancies, regard should be had to good employment practice, such as that outlined in the ACAS booklet on handling redundancies.

DEFINITIONS

3. For the purposes of these arrangements, the following expressions have the meanings assigned below:-

3.1 "Health Service Authority" means a Regional Health Authority, a District Health Authority, the Dental Practice Board, a Special Health Authority, a Family Health Service Authority, the Public Health Laboratory Service Board, a Health Board and the Common Services Agency in Scotland, the Northern Ireland Health and Social Services Board and its Central Services Agency, and any predecessor or successor authority.

3.2 "Reckonable service", which shall be calculated up to the date on which the termination of the contract takes effect, means continuous employment as defined in 1 above with the present or any previous Health Service authority, after attaining age 18 years.

A period (which may include the aggregate or shorter periods) not exceeding 12 months beginning on or after 1 April 1985 spent as a GP trainee in the employment of a Principal GP trainer under the Trainee Practitioner scheme shall, notwithstanding that it is not employment with a Health Service authority, also count as "reckonable service".

Periods of employment prior to a break or more than 12 months at any one time in employment with a Health Service authority shall not count as "reckonable service", except that any period of employment as a GP trainee counted as "reckonable service" shall not count as part of any period of more than 12 months constituting a break in employment with a Health Service authority.

Service which qualifies under Section 58 of this Handbook shall also count as reckonable service. The following previous employment shall not so count:

3.2.1 employment which has been the subject of terminal payments under HM (60)47 or HM(62)12 (in Scotland, SHM(60)38 or SHM(62)14;

3.2.2 employment which has been the subject of a redundancy payment under this agreement or under any similar redundancy arrangements in Northern Ireland;

3.2.3 employment which has been the subject of compensation for loss

SECTION 45 (CONT'D)

of office under the National Health Service (Transfer of Officers and Compensation) Regulations 1948 and 1960, the National Health Service (Transfer and Compensation) (Scotland) Regulations 1948 and 1960, the Local Government (Executive Councils) (Compensation) Regulations 1964 and 1966, the National Health Service (Compensation) Regulations 1971, the National Health Service (Compensation) (Scotland) Regulations 1971, or Regulations made under section 24 of the Superannuation Act 1972, or any orders made under sections 11(9) or 31(5) of the National Health Service Act 1946 or sections 11(10) or 32(5) or the National Health Service (Scotland) Act 1947 or sections 13(3) or 19(6) of the National Health Service (Scotland) Act 1972, or under sections 28(6) or 60 of the Health Service Act (Northern Ireland) 1948 or Article 78 of the Health and Personal Social Services (Northern Ireland) Order 1972 or Regulations made under section 44 of the National Health Service Reorganisation Act 1973, or section 34A of the National Health Service (Scotland) Act 1972.

3.2.4 employment in respect of which the employee was awarded superannuation benefits.

3.3 "Superannuation benefits" means the benefits, or part of the benefits (other than a return or contribution) payable under a superannuation scheme in respect of the period of the employee's reckonable service.

3.4 "Week's pay"* means either:

3.4.1 an amount calculated in accordance with the provisions of Schedule 14, Part II of the Employment Protection (Consolidation) Act 1978 except that paragraph 8 of Schedule 14, Part II shall not apply or

3.4.2 an amount equal to 7/365ths of the annual salary in payment at the date of termination of employment, or

3.4.3 the weekly wage calculated as at the date of termination of employment, to which the employee would be entitled under the agreements of the Ancillary Staffs Council or the Ambulance Council or the Whitley Councils for the Health Services (Great Britain) during absence on annual leave,

whichever is more beneficial to the employee.

BENEFITS

4. The redundancy payment* shall take the form of a lump sum dependent on the employee's age and reckonable service at the date of ceasing to be employed. This shall be:

4.1 for all employees aged 41 or over who are not immediately after that date entitled to receive payment or benefits provided under the NHS Superannuation Scheme, the lump sum shall be assessed as follows:

4.1.1 2 weeks' pay for each complete year of reckonable service at age 18 or over with a maximum of 50 weeks' pay, PLUS

4.1.2 an additional 2 weeks' pay for each complete year of reckonable service at age 41 or over with a maximum of 16 weeks' pay.

(Overall maximum, 66 weeks' pay)

* Footnote - In all cases the redundancy payment will need to be recalculated, and any arrears due paid, if a retroactive pay award is notified after the date of cessation of employment.

SECTION 45 (CONT'D)

4.2 For other employees, a maximum of 20 years reckonable service may be counted, assessed as follows:

4.2.1 For each complete year of reckonable service at age 41 or over - $1\frac{1}{2}$ weeks' pay;

4.2.2 For each complete year of reckonable service at age 22 or over but under 41 - 1 week's pay;

4.2.3 For each complete year of reckonable service at age 18 or over but under 22 - $\frac{1}{2}$ week's pay.

(Overall maximum, 30 weeks' pay)

5. Fractions or a year cannot count except that they may be aggregated under 4.2.1, 4.2.2 and 4.2.3 to make complete years. These must be paid for at the lower appropriate rate for each complete year aggregated.

6. If the 64th birthday has been passed, the sum calculated under paragraph 4 above shall be reduced by one twelfth for each complete month between the date of the 64th birthday and the last day of service.

7. Redundant employees who are entitled to an enhancement of their superannuation benefits on ceasing to be employed will, if the enhancement of service is less than 10 years, be entitled to receive redundancy payments. Where the enhancement of service does not exceed $6\frac{2}{3}$ years they will be paid in full; where the enhancement of service exceeds $6\frac{2}{3}$ years they will be reduced by 30% in respect of each year of enhanced service over $6\frac{2}{3}$ years with pro rata reduction for part years.

EXCLUSION FROM ELIGIBILITY

8. Employees otherwise eligible shall not be entitled to redundancy payments under these arrangements if they:-

8.1 are dismissed for reasons of misconduct, with or without notice; or

8.2 are age 65 or over; or

8.3 have reached the normal retiring age in cases where there is a normal retiring age of less than 65 for employees holding the position which they held and the age is the same for men and women; or

8.4 at the date of the termination of the contract have obtained without a break or with a break not exceeding 4 weeks suitable alternative employment with the same or another Health Service authority in Great Britain or NHS trust in Great Britain; or

8.5 unreasonably refuse to accept or apply for suitable alternative employment with the same or another Health Service authority in Great Britain or NHS trust in Great Britain; or

8.6 leave their employment before expiry of notice except as described at paragraph 11; or

8.7 are offered a renewal of contract (with the substitution of the new employer for the previous one) where the employment is transferred to another public service employer not being a Health Service authority.

SECTION 45 (CONT'D)

SUITABLE ALTERNATIVE EMPLOYMENT

9. "Suitable alternative employment", for the purposes of paragraph 8, should be determined by reference to sections 82(3) and 82(5) of the Employment Protection (Consolidation) Act 1978. In considering whether a post is suitable alternative employment, regard should be had to the personal circumstances of the employee. Employees will, however, be expected to show some flexibility by adapting their domestic arrangements where possible.

10. For the purposes of this scheme any suitable alternative employment must be brought to the employee's notice in writing before the date of termination of contract and with reasonable time for the employee to consider it; the employment should be available not later than 4 weeks from that date. Where this is done, but the employee fails to make any necessary application, the employee shall be deemed to have refused suitable alternative employment. Where an employee accepts suitable alternative employment the "trial period" provisions in section 84(3) to (7) of the Employment Protection (Consolidation) Act 1978 shall apply.

EARLY RELEASE OF REDUNDANT EMPLOYEES

11. Employees who have been notified of their cessation of employment on account of redundancy, and for whom no suitable alternative employment in the NHS is available may, during the period of notice, obtain other employment outside the NHS and wish to take this up before the period of notice of redundancy expires. In these circumstances the employing authority shall, unless there are compelling reasons to the contrary, release such employees at their request on a mutually agreeable date and that date shall become the revised date of redundancy for the purpose of calculating any entitlement to a redundancy payment under the other terms of this agreement.

CLAIM FOR REDUNDANCY PAYMENT

12. Subject to the employee submitting a claim which satisfies the conditions and is made either before or within 6 months after cessation of employment, the redundancy payment shall be paid by the employing authority. Before payment is made, employees shall provide a certificate that at the date of termination of the contract they had not obtained or been offered or unreasonably refused to apply for or accept suitable alternative Health Service employment commencing without a break or with a break not exceeding 4 weeks from the date of termination and that they understand that the payment is made only on this condition and they undertake to refund it if this condition is not satisfied.

DISPUTES

13. Employees who disagree with the employing authority's calculation of the amount of redundancy payment or rejection of a claim for such payment should in the first instance make representation to the employing authority via the local grievance procedures.