

The Scottish Government
Health Workforce
NHS Pay, Conditions and Workforce Planning



Dear Colleague

PAY AND CONDITIONS FOR GENERAL PRACTITIONER SPECIALTY REGISTRARS (GPStR's) IN SCOTLAND

EXTENSION OF INJURY ALLOWANCE PROVISIONS

Summary

1. This circular advises of the extension of Injury Allowance Provisions to GP Specialty Registrars (GPStR's) in Scotland.

Agreement

2. Following agreement between Scottish Government, NHS Education Scotland (NES) and the British Medical Association Scotland (BMA), the provisions detailed below will now form part of the Guidance on the operation of the GP Registrar Scheme in Scotland, which was originally issued as NHS Circular [PCS\(GPR\)2011/1](#), on 6 July 2011. An updated Contents section for incorporation into the Guidance is attached at **Annex A**. A new section, Schedule 2, is attached at **Annex B** and should be incorporated in the Guidance

3. These provisions are effective from 1 April 2014.

Background

4. The NHS Staff Council in 2013 approved a new section for inclusion in the Agenda for Change NHS Terms and Conditions of Service (TCS) Handbook, which introduced a contractual right to injury allowance, replacing the statutory Injury Benefit in place previously.

5. These provisions were subsequently applied to all doctors and dentists employed by NHS Boards, Special

31 March 2015

Addresses

For action
Chief Executive,
Director of Finance,
Director of Human Resources,
NHS Education for Scotland
(NES)

For information
Chief Executives,
Directors of Finance,
Directors of Human Resources,
NHS Boards,
Special Health Boards,
NHS National Services Scotland
(Common Services Agency) and
Healthcare Improvement Scotland
Management Steering Group
GP Practices

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Health Boards and NHS National Services Scotland, as detailed in NHS Circular [PCS\(DD\)2013/3](#) in June 2013.

The provisions are now being extended to GP Specialty Registrars (GPStR's) in Scotland.

6. NES are asked to:

- Make the necessary arrangements, to ensure that this change takes effect with application from 1 April 2014;
- Advise SG Specialty Registrars of this change;
- Make their own arrangements for obtaining additional copies of this circular, which is available on the SHOW website at:

www.show.scot.nhs.uk/sehd/publications.asp

Enquiries

7. Employees should direct any personal enquiries to NHS Education for Scotland (NES).

Yours sincerely



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NHSScotland Workforce Director

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DIRECTION

The Scottish Ministers, in exercise of the powers conferred on them by Section 2(5) of the National Health Service (Scotland) Act 1978, hereby give to NHS Education for Scotland (NES) the following Direction.

The terms and conditions for staff covered by NHS Circular [PCS\(GPR\)2011/1](#) are amended as set out in NHS Circular PCS(GPR)2015/1 and its annexes, which was approved by Scottish Ministers on 31 March 2015 and with effect from 1 April 2014.



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31 March 2015

ANNEX A

Pay, Accommodation, Removal and Associated Expenses of GP Specialty Registrars in General Practice

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Schedule 2

Provision for an injury allowance to be paid to eligible employees who, due to a work related injury, illness or other health conditions, are on authorised sickness absence or phased return to work with reduced pay or no pay.

Annex B**SCHEDULE 2****NHS Injury Allowance Provisions**

This section contains provision for an injury allowance to be paid to eligible employees who, due to a work related injury, illness or other health conditions, are on authorised sickness absence or phased return to work with reduced pay or no pay. It also makes provision for the protection of pay in certain circumstances. It does not confer an additional period of sickness absence entitlement to eligible employees.

a) Eligibility

Eligible employees who have injuries, diseases or other health conditions that are wholly or mainly attributable to their NHS employment, will be entitled to an injury allowance, subject to the conditions set out in this Section. The injury, disease, or other health condition must have been sustained or contracted in the discharge of the employee's duties of employment or an injury that is not sustained on duty but is connected with or arising from the employee's employment.

The attribution of injury, illness or other health condition will be determined by the employer who should seek appropriate medical advice. In all cases the employer should use the civil burden of proof - "on the balance of probability" (more likely than not) - to determine the outcome. Where the employee disagrees with the employer's decision then they are entitled to appeal the decision through local grievance procedures (see section g below).

Employees claiming injury allowance are required to provide all relevant information, including medical evidence, that is in their possession or that can reasonably be obtained, to enable the employer to determine the claim.

Payment of injury allowance is not dependent on length of service.

The following circumstances will not qualify for consideration of injury allowance:

- injury whilst on a normal journey travelling to and from work, except where the journey is part of their contractual NHS duties;
- sickness absence as a result of disputes relating to employment matters, conduct or job applications;
- injury, disease or other health condition due to or seriously aggravated by the employee's own negligence or misconduct.

b) Scale of injury allowance

Injury allowance will be paid to eligible employees as a top up to their sick pay or earnings, when on phased return on reduced pay. This calculation will include any contributory state benefits received by the employee to 85 per cent of pay.

The injury allowance payment is subject to National Insurance Contributions and income tax but is not subject to pensions contribution deductions.

Contributory state benefits received for loss of earnings will be offset at the rate at which they are actually received by the employee. All other benefits or payments received should be ignored.

Eligible employees are required to claim any contributory state benefits they may be entitled to and to declare receipt of such benefit(s) to their employer. Timely notification will ensure that overpayments of injury allowance are not made. Employers will require repayment when an overpayment is made.

c) Payment period

The allowance will be restricted to a period of up to 12 months per episode, subject to local absence management, return to work and rehabilitation policies.

d) Using injury allowance to support return to work

Eligible employees who make a phased return to work can receive the injury allowance as a pay top up to 85 per cent of pay if their pay is reduced during an employer approved period of rehabilitation, subject to the timescales set out in section c) above.

e) Pay protection

Eligible employees who have to change jobs permanently to a position on lower pay due to a work related injury, illness and/or other health condition, will receive a period of protected pay that is the same as local provision for pay protection during organisational change.

f) Recovery of overpayment of injury allowance

An employer can seek to recover any overpayments made to an employee. Where recovery is necessary employers should take into account the period of time the overpayment was in place when agreeing the programme of repayments.

g) Dispute resolution

Any disputes that arise due to the local application of injury allowance provisions should be handled via local grievance procedures.