STATUTORY INSTRUMENTS

2002 No. 1311

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Compensation for Premature Retirement) Regulations 2002

Made - - - -	*10th May 2002*
Laid before Parliament	*10th May 2002*
Coming into force	*31st May 2002*

The Secretary of State for Health, in exercise of the powers conferred upon him by section 24(1), (3) and (4) of, and paragraphs 8, 9 and 13 of Schedule 3 to, the Superannuation Act 1972**(a)**, and of all other powers enabling him in that behalf, with the consent of the Treasury**(b)**, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Health Service (Compensation for Premature Retirement) Regulations 2002 and shall come into force on 31st May 2002.

Interpretation

2.—(1) In these Regulations—

"additional period of service" means a period of service calculated in accordance with regulations 5 and 6;

"early retirement regulations" means any regulations made under section 34A of the National Health Service (Scotland) Act 1972**(c)**, section 260 of the Local Government Act 1972**(d)**, article 19 of, and Schedule 3 to, the Superannuation (Northern Ireland) Order 1972**(e)** or article 3 of the Superannuation (Northern Ireland) Order 1973**(f)**;

"employing authority" means—

(a) a Health Authority established under section 8 of the National Health Service Act 1977 or a Special Health Authority established under section 11 of that Act**(g)**;

(b) a National Health Service Trust established under section 5 of the National Health Service and Community Care Act 1990**(h)**;

(a) 1972 c.11. Section 24 was amended by section 13(1) of, and paragraph 10 of Schedule 2 to, the Police Pensions Act 1976 (c.35).

(b) *See* article 2 of the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670).

(c) 1972 c.58. Section 34A was inserted by paragraph 141 of Schedule 4 to the National Health Service Reorganisation Act 1973 (c.32).

(d) 1972 c.70.

(e) S.I. 1972/1073 (N.I. 10), as amended by S.I. 1990/1509 (N.I. 13).

(f) S.I. 1973/962 (N.I. 13).

(g) 1977 c.49. Section 8 was substituted by section 1(1) of, and Schedule 1 to, the Health Authorities Act 1995 (c.17) ("the 1995 Act") and amended by section 148 of the Government of Wales Act 1998 (c.38) and section 65 of, and paragraphs 4 and 5 of Schedule 4, and Schedule 5 to, the Health Act 1999 (c.8) ("the 1999 Act"). Section 11 was amended by section 2(1) of, and paragraph 2 of Schedule 1 to, the 1995 Act, and by section 65 of, and paragraphs 4 and 6 of Schedule 4 to, the 1999 Act.

(h) 1990 c.19.

(c) the Dental Practice Board constituted under section 37(1) of the National Health Service Act 1977**(a)**;

(d) a Primary Care Trust established under section 16A of the National Health Service Act 1977**(b)**;

(e) a university or a higher education college, but only in relation to the employment—

(i) in a university's medical school of those people whose names appear in the Schedule to the Medical School Employment (Superannuation) Direction 1999**(c)**; or

(ii) of those people whose names appear in the Schedule to the University of London (Postgraduate Deanery Staff) (Superannuation) Direction 1999, the Postgraduate Education in General Practice (Superannuation) Direction 1999; or the University (Postgraduate Deanery Staff) (Superannuation) Direction 1999**(d)**;

(f) the Secretary of State for Health, but only in relation to the employment of those people whose names appear in the Schedule to the NHS Executive (Postgraduate Deanery Staff) (Superannuation) Direction 1999**(e)**; and

(g) such other body that is constituted under an Act relating to health services and which the Secretary of State agrees to treat as an employing authority for the purposes of these Regulations;

"entitled officer" means a person to whom these Regulations apply in accordance with regulation 3;

"higher education college" means an institution which has been designated a higher education corporation within the meaning given by section 90(1) of the Further and Higher Education Act 1992**(f)**;

"local authority" has the same meaning as in the Local Government Act 1972;

"local government compensation regulations" means any regulations made under section 60(2) of the Local Government Act 1958**(g)**, section 85(4) of the London Government Act 1963**(h)**, section 259 of the Local Government Act 1972**(i)** or section 24 of the Superannuation Act 1972 in relation to local government service and the corresponding provisions in force in Scotland, Northern Ireland and the Isle of Man;

"the material date", in relation to an entitled officer, means the date on which he became an entitled officer;

"medical school" means that part of any university at which instruction is given only to medical or dental students with a view to their qualification as fully registered medical practitioners for the purposes of the Medical Act 1983**(j)** or, as the case may be, registered dentists for the purposes of the Dentists Act 1984**(k)**, and includes any postgraduate institute for medical or dental research;

"officer" means a person employed by an employing authority and shall include—

(a) Section 37 was amended by section 12 of the Health and Medicines Act 1988 (c.49). Section 12(1) renamed the Dental Estimates Board as the Dental Practice Board.
(b) Section 16A was inserted by section 2 of the 1999 Act.
(c) A direction made under section 7(2) of the Superannuation (Miscellaneous Provisions) Act 1967 (c.28).
(d) These directions were made under section 7(2) of the Superannuation (Miscellaneous Provisions) Act 1967.
(e) A direction made under section 7(2) of the Superannuation (Miscellaneous Provisions) Act 1967.
(f) 1992 c.13.
(g) 1958 c.55. Section 60(2) was amended by S.I. 1968/1656, section 63 of, and Schedule 9 to, the Police Act 1964 (c.48), section 46(2) of, and paragraph 2(2) of Schedule 3 to, the Children and Young Persons Act 1969 (c.54), section 14(1) of, and paragraph 8 of Schedule 2 to, the Local Authority Social Services Act 1970 (c.42) and section 103 of, and paragraph 12 of Schedule 7 to, the Police Act 1996 (c.16).
(h) 1963 c.33. Section 85(4) was amended by section 291 of, and Schedule 23 to, the Town and Country Planning Act 1971 (c.78) and section 3 of, and Part I of Schedule 1 to, the Planning (Consequential Provisions) Act 1990 (c.11).
(i) Section 259 was amended by section 39 of the Local Government Act 1974 (c.7), section 134 of, and paragraph 23 of Schedule 10 to, the Food Act 1984 (c.30) and section 59(1) of, and paragraph 17 of Schedule 3 to, the Food Safety Act 1990 (c.16).
(j) 1983 c.54.
(k) 1984 c.24.

(a) a dental practitioner in respect of whom the Secretary of State has certified that the employment in which he is employed is terminated in the interests of the efficiency of the service in accordance with regulation E3(1)(b)(ii) of the Pension Scheme Regulations**(a)** (early retirement pension (redundancy etc.)); and

(b) a person whose name appears in the Schedule to the Medical School Employment (Superannuation) Direction 1999, the University (Postgraduate Deanery Staff) (Superannuation) Direction 1999, the Postgraduate Education in General Practice (Superannuation) Direction 1999, the University of London (Postgraduate Deanery Staff) (Superannuation) Direction 1999, or the NHS Executive (Postgraduate Deanery Staff) (Superannuation) Direction 1999;

"Pension Scheme Regulations" means the National Health Service Pension Scheme Regulations 1995**(b)**;

"pensionable employment", in relation to an entitled officer, has the meaning given by regulation A2 of the Pension Scheme Regulations;

"pensionable service", in relation to an entitled officer, has the meaning given by regulation A2 of the Pension Scheme Regulations;

"previous Regulations" means the National Health Service (Compensation for Premature Retirement) Regulations 1981**(c)**; and

"university" means a self-governing higher education body with the power to award degrees—

(a) which is established by Act of Parliament or Royal Charter; or

(b) whose name includes the word "university" by virtue of the exercise with the consent of the Privy Council of any power as extended by section 77 of the Further and Higher Education Act 1992; or

(c) which falls within the definition of "university" under section 90(3) of that Act.

(2) In these Regulations, unless the context otherwise requires—

(a) any reference to a numbered regulation or Schedule is a reference to the regulation or, as the case may be, Schedule bearing that number in these Regulations; and

(b) any reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph bearing that number in that regulation, or as the case may be, that Schedule.

Persons to whom the Regulations apply

3. These Regulations shall apply to an officer who on ceasing to be employed in the employment of an employing authority becomes entitled to benefits in accordance with regulation E3 of the Pension Scheme Regulations.

Payment of compensation

4.—(1) Subject to the provisions of these Regulations, an entitled officer shall be entitled, with effect from the material date, to receive from the Secretary of State compensation in accordance with paragraph (2) and, where he is also entitled to a lump sum under regulation E6 of the Pension Scheme Regulations (lump sum on retirement), paragraph (3).

(2) The compensation payable in accordance with this paragraph shall consist of an annual allowance at a rate equal to the rate by which that pension would be increased in accordance with those Regulations if a period equal to the period with which he is credited under regulation 5 were added to the pensionable service in respect of which that pension is payable.

(3) The compensation payable in accordance with this paragraph shall consist of a lump sum equal to the amount by which the lump sum payable under regulation E6 of those Regulations would be increased in accordance with those Regulations if a period equal to the period with which he is credited under regulation 5 were added to the pensionable service in respect of which that lump sum is payable.

(a) Regulation E3 was amended by S.I. 1997/1888, 1998/666, 2216 and 2000/605.
(b) S.I. 1995/300 as amended by S.I. 1997/80, 1888, 1998/666, 2216, 2000/605, 2001/1428, 3649 and 2002/561.
(c) S.I. 1981/1263 as amended by S.I. 1982/288, 1985/39, 1659, 1991/584 and 2000/605.

Crediting of additional period of service

5.—(1) Subject to paragraphs (2) and (3), for the purpose of calculating the amount of the annual allowance payable in accordance with regulation 4(2) and, where applicable, the amount of the lump sum payable in accordance with regulation 4(3)—

(a) where the total amount of—

(i) an entitled officer's pensionable service, including any service to which regulation R4(5) of the Pension Scheme Regulations**(a)** (members doing more than one job) applies; and

(ii) any relevant optant service,

is not more than 10 years, the entitled officer shall be credited with an additional period of service equal to the aggregate of such pensionable service and any such relevant optant service; or

(b) where the total amount of—

(i) an entitled officer's pensionable service, including any service to which regulation R4(5) of the Pension Scheme Regulations applies; and

(ii) any relevant optant service,

is more than 10 years, the entitled officer shall be credited with an additional period of service of 10 years.

(2) The period of additional service credited to an entitled officer shall not exceed the amount necessary to make his total pensionable service reach—

(a) 40 years; or

(b) the maximum length of pensionable service he would have been able to accrue had he remained in pensionable employment until retirement age,

whichever is the lesser.

(3) In determining the additional period of service to be credited to a mental health officer under paragraphs (1) and (7), no account shall be taken of the provisions in regulation R3(5) of the Pension Scheme Regulations (mental health officer - doubling of pensionable service).

(4) For the purposes of paragraphs (1) to (3) above—

(a) "relevant optant service" means—

(i) service in respect of which an entitled officer was subject to regulation 48 of the National Health Service (Superannuation) Regulations 1980**(b)** (persons subject to non-statutory superannuation schemes and arrangements) and which terminated within the 12 months immediately before the beginning of his pensionable service; and

(ii) in the case of a person who became an officer in the circumstances described in regulation 2(2) of the National Health Service (Superannuation) Regulations 1980**(c)** (interpretation), any service accrued in the employment of a local authority by virtue of which he was, immediately before becoming an officer, a member of such a scheme as is referred to in regulation 48 of those Regulations;

(b) "retirement age" means, in relation to an entitled officer, the age at which, under any written condition of employment, he may be required to retire or, if there is no such condition, the age of 65.

(5) Where—

(a) an entitled officer has received—

(i) a redundancy payment under the Employment Rights Act 1996**(d)**; or

(ii) a corresponding payment under the arrangements of the Whitley Councils for the Health Services of Great Britain; or

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(a) Regulation R4 was amended by S.I. 1998/666.

(b) S.I. 1980/362 as amended by S.I. 1981/1205, 1982/288, 1765, 1985/39, 1987/2218, 1989/804, and 1991/584. Regulation 48 was revoked with a saving by regulation V2(3)(e) of the National Health Service Pension Scheme Regulations 1995.

(c) Regulation 2(2) was revoked by regulation V2(1) of, and Schedule 3 to, the National Health Service Pension Scheme Regulations 1995.

(d) 1996 c.18.

(iii) a payment made by virtue of any arrangement made pursuant to paragraph 17(2) of Schedule 2 to the National Health Service and Community Care Act 1990**(a)** (National Health Service Trusts—general powers),

in respect of the cessation of the employment referred to in regulation 3; and

(b) that payment has not been reduced to take account of any additional period of service with which the officer may have been credited,

any such additional period of service shall not exceed 6 years and 243 days.

(6) For the purposes of this regulation, where the pensionable service of an entitled officer consists of or includes pensionable service in part-time employment, such service shall count at its full length.

(7) Where the pensionable service of an entitled officer includes service in the employment of an employing authority before 4th November 1980, that officer shall be entitled to compensation calculated in accordance with the provisions of regulation 5(1) (persons who became entitled officers between 29th October 1976 and 3rd November 1980) and regulation 5(4) (service before 4th November 1980) of the previous Regulations if such a calculation would place that entitled officer in a better position than he would have been in had the compensation been calculated in accordance with this regulation.

(8) Where the amount of any benefit to which an entitled officer is or may become entitled under the Pension Scheme Regulations is or may be supplemented under regulation 49 or 50 of the National Health Service (Superannuation) Regulations 1980**(b)** (supplementary, or discretionary, payments in respect of certain officers) at the discretion of the Secretary of State, the Secretary of State may in the same manner as under regulation 49 or 50 of those Regulations, make supplementary or discretionary payments to such extent as he considers appropriate in addition to any compensation payable to the entitled officer under these Regulations.

(9) For the purpose of regulation 6(1), where any part of the pensionable service of an entitled officer to whom there is payable a pension under regulation E3 of the Pension Scheme Regulations is service in part-time employment, the compensation payable in respect of the service credited under this regulation shall not exceed the relevant amount.

(10) In this regulation—

"the relevant amount" means the amount which bears the same proportion to the amount which would have been payable had the service not been part-time as the whole-time equivalent of an entitled officer's pensionable service in respect of part-time employment bears to comparable whole-time employment; and

"the whole-time equivalent" is calculated using the method described in regulation R5(3) of the Pension Scheme Regulations (part-time employment).

Calculation of compensation

6.—(1) Subject to paragraph (2), the compensation payable under regulation 4 in respect of the additional period of service of an entitled officer shall be calculated in like manner as his pension under regulation E3 of the Pension Scheme Regulations and, where applicable, his lump sum on retirement under regulation E6 of those Regulations or, where a transfer payment has been made in his case under Part M**(c)** of those Regulations (transfers and buy-outs), the pension and, where applicable, lump sum on retirement which would have been payable but for his pension benefits having been transferred to another scheme by means of that transfer payment.

(2) Where regulation R3 of the Pension Scheme Regulations or any corresponding provision of any other scheme in which the entitled officer has retained rights to benefit by virtue of an option exercised under regulation 44 of the National Health Service (Superannuation) Regulations 1980**(d)** applies to an entitled officer, the compensation in respect of his additional period of service shall be calculated as if neither paragraph (5)(b) of regulation R3 nor any corresponding provision applied to him.

(a) 1990 c.19.

(b) Regulations 49 and 50 of the National Health Service (Superannuation) Regulations 1980 continue to apply by virtue of a saving in regulation V2(3)(e) of the National Health Service Pension Scheme Regulations 1995.

(c) Regulations M1, M2 and M6 were amended by S.I. 2002/561.

(d) Regulation 44 of the National Health Service (Superannuation) Regulations 1980 was revoked with a saving by regulation V2(3)(e) of and Schedule 3 to, the National Health Service Pension Scheme Regulations 1995.

(3) Subject to paragraph (4), where an entitled officer is in receipt of any payment specified in paragraph (6) there shall be deducted from the additional period of service which, but for this paragraph, would have counted as pensionable service by virtue of paragraph (1) or (7) of regulation 5, any additional years or deemed added years which were taken into account for the purposes of the calculation of that payment.

(4) The Secretary of State may direct that the deduction in accordance with paragraph (3) should not be made, or that a lesser number of years should be deducted, where—

(a) an entitled officer is in receipt of a payment specified in paragraph (6); and

(b) there are differences between—

(i) the terms of the employment in respect of which that payment is received; and

(ii) the terms of the employment referred to in regulation 3; and

(c) by reason of those differences, the deduction would be disproportionately large.

(5) For the purposes of paragraphs (3) and (4)—

(a) "additional years", in the case of an entitled officer who receives a payment referred to in paragraph (6), means the additional period of service with which that officer was credited for the purpose of making that payment and which had on the calculation of that payment the corresponding effect that the additional period of service has on the annual allowance payable under these Regulations;

(b) any additional years or deemed added years shall not be taken into account if these have been taken into account for the purpose of reducing any payment specified in paragraph (6);

(c) where a payment specified in paragraph (6) has been enhanced by a sum, being a fraction of the annual rate of remuneration, calculated in sixtieths, each one sixtieth shall be deemed to be an added year for the purposes of this regulation and the expression "deemed added years" shall be construed accordingly;

(d) the additional period of service shall be deemed to commence on the material date;

(e) the additional years or deemed added years shall be deemed to commence on the day after the occurrence of the event in respect of which the payment specified in paragraph (6) became payable;

(f) any additional years or deemed added years which relate to a period before the material date shall not be taken into account.

(6) The payments referred to in paragraphs (3) to (5) are—

(a) an annual allowance payable under these Regulations;

(b) any annual compensation payable immediately or prospectively under the local government compensation regulations or any other regulations made under section 24 of the Superannuation Act 1972 (compensation for loss of office, etc.);

(c) any annual compensation payable under a scheme made under section 1 of the Superannuation Act 1972**(a)** (superannuation schemes as respects civil servants, etc.) or under article 3 of the Superannuation (Northern Ireland) Order 1973;

(d) any annual benefit payable under the early retirement regulations; or

(e) any other payment provided for by regulations which have like effect to the regulations referred to in sub-paragraphs (a), (b) or (d).

Partial surrender of annual allowance

7. Where, under regulation J1 of the Pension Scheme Regulations (allocation of part of pension), an entitled officer may surrender part of his pension in favour of his spouse or any other dependant, he may surrender part of the annual allowance which is payable to him under these Regulations, after any reduction under regulation 10, on the like terms and conditions, and in consideration of the like payments by the Secretary of State, as if the said annual allowance were a pension to which he had become entitled under the Pension Scheme Regulations.

(a) Section 1 was amended by section 8(1) and (2) of the Pensions (Miscellaneous Provisions) Act 1990 (c.7) and by section 190 of, and paragraph 6 of Schedule 8 to, the Pension Schemes Act 1993 (c.48).

Compensation payable to widow, widower or dependants

8.—(1) Where an entitled officer dies, payments in accordance with this regulation shall be made by the Secretary of State to or for the benefit of that officer's widow, widower, child or other dependant or to that officer's personal representative.

(2) If the widow, widower, child or other dependant of an entitled officer is entitled to a benefit under the Pension Scheme Regulations, or would have been so entitled if that officer's benefits had not been transferred to another scheme, the widow, widower, child or other dependant, as the case may be, shall be entitled to receive compensation equal to the benefits he would have received if the compensation payable to the entitled officer under regulation 4 immediately before death had been a pension which was payable under the Pension Scheme Regulations.

(3) Any compensation payable to or for the benefit of a widow, widower, child or other dependant under this regulation shall cease to be payable on the date on which the benefit under the Pension Scheme Regulations ceases, or would have ceased, to be payable.

(4) Where—

(a) any benefit under the Pension Scheme Regulations is payable to any person on behalf of a child or other dependant in accordance with those Regulations; or

(b) the entitled officer's benefits have been transferred to another scheme and any benefits under the Pension Scheme Regulations would have been payable to any such person if those Regulations had continued to apply in relation to that officer;

any compensation payable under this regulation to a child or other dependant shall be paid to that person on behalf of the child or other dependant in the like manner and for the like period as is provided in the Pension Scheme Regulations.

Compensation where lump sum on death becomes payable

9.—(1) Where the widow, widower, nominee or the personal representative of an entitled officer is entitled to receive a lump sum on death under regulation F5 of the Pension Scheme Regulations**(a)** (payment of lump sum), that widow, widower, nominee or personal representative shall be entitled under these Regulations to an amount equal to the amount by which such a lump sum on death would have been increased if, for the purpose of calculating the lump sum on death—

(a) there were also taken into account the additional period of service credited to the entitled officer as if it were pensionable service;

(b) the annual allowance or lump sum payable under regulation 4 were treated as if it were a pension payable under regulation E3 or, where applicable, a lump sum on retirement payable under regulation E6 of the Pension Scheme Regulations; and

(c) where any proportion of an annual allowance has been surrendered under regulation 7, there were taken into account the amount which would have been paid but for such a surrender.

(2) For the purpose of this regulation "nominee" means a person specified in a notice given by an entitled officer to the Secretary of State for the purpose of regulation F5(3A) of the Pension Scheme Regulations.

Adjustments of compensation

10.—(1) Where an entitled officer enters further employment with an employing authority on or after the material date and that further employment has ceased, any compensation payable under these Regulations based on the additional period of service shall be reduced in accordance with Schedule 1 to these Regulations to take account of any benefit payable under the Pension Scheme Regulations in respect of that further employment.

(2) Where, in respect of an entitled officer, the aggregate of—

(a) Regulation F5 was amended by S.I. 2000/605.

(a) his pensionable service on the material date;

(b) any additional period of service credited to him under these Regulations; and

(c) any further pensionable service accrued by him on or after the material date,

exceeds the number of years of service that would have been pensionable under regulation C2(3) of the Pension Scheme Regulations (limitations on pensionable service) had the aggregate of his service been pensionable service under those Regulations, the annual allowance which he is entitled to receive under these Regulations shall be reduced by an amount equal to the compensation payable under regulation 4 in respect of a period of pensionable service equal to the period in excess of that prescribed in regulation C2(3).

Reduction of compensation in certain cases

11. Where an entitled officer who is in receipt of an annual allowance under regulation 4 enters or continues in employment which would constitute NHS employment for the purposes of regulation S2 of the Pension Scheme Regulations**(a)** (reduction of pension on return to NHS employment), the annual rate of that allowance together with any pension payable under those Regulations shall not exceed the rate at which the compensation would have been paid if the aggregate of the allowance and pension had been a pension liable to reduction under the said regulation S2.

Supply of information

12. Any person to whom compensation is payable under these Regulations shall furnish all such information as the Secretary of State may at any time require for the purposes of these Regulations and that person shall verify the same in such manner, including the production of documents in his possession or control, as may reasonably be required.

Compensation not assignable

13.—(1) Any assignment of, or charge on, or any agreement to assign or charge, any right to compensation under these Regulations is void.

(2) On the bankruptcy of an entitled officer, no part of the compensation shall be paid to any trustee or other person acting on behalf of the creditors, except as provided for in paragraph (3).

(3) Where, following the bankruptcy of an entitled officer, the court makes an income payments order under section 310 of the Insolvency Act 1986**(b)** that requires the Secretary of State to pay all or part of the compensation to the entitled officer's trustee in bankruptcy, the Secretary of State shall comply with that order.

Miscellaneous provisions relating to payment of compensation

14.—(1) Subject to paragraph (2), where, on the death of a person to whom compensation is payable under these Regulations, any sum is due to or in respect of that person, the Secretary of State may pay it to any person claiming to be the personal representative of that person or to be entitled to a share of it, and may do so without requiring proof of the title of the person concerned.

(2) Paragraph (1) does not apply if the total of the sum referred to in that paragraph when added to any sum payable under the Pension Scheme Regulations exceeds the specified amount.

(3) In paragraph (2), the "specified amount" means £5,000 or any higher amount which is for the time being specified in an order made under section 6(1) of the Administration of Estates (Small Payments) Act 1965**(c)** as the amount to be treated as substituted for references to £500 in section 1 of that Act.

(a) Regulation S2 was amended by S.I. 1998/666 and 2000/605.
(b) 1986 c.45. Section 310(7) is amended by paragraph 2 of Schedule 2 to the Welfare Reform and Pensions Act 1999 (c.30).
(c) 1965 c.32. £5,000 is the amount specified in S.I. 1984/539.

Determination of questions

15. Any question arising as to the rights or liabilities of any person under these Regulations shall be determined by the Secretary of State.

Revocations and savings

16.—(1) The Regulations specified in Column 1 of Schedule 2 are revoked to the extent specified in Column 2 of that Schedule.

(2) Anything done under, or by virtue of, any regulation revoked by these Regulations shall, if it could have been done under or for the purpose of the corresponding provision of these Regulations, be deemed to have been done under or by virtue of the corresponding provision of these Regulations, and anything begun under, or by virtue of, any such regulation may be continued under these Regulations as if begun under these Regulations.

Signed by authority of the Secretary of State for Health.

John Hutton
Minister of State,
7th May 2002 Department of Health

We consent to the making of these Regulations.

Tony McNulty
Anne McGuire
10th May 2002 Two of the Lords Commissioners of Her Majesty's Treasury.

SCHEDULE 1

Regulation 10(1)

CALCULATION OF REDUCTIONS TO TAKE ACCOUNT OF PENSION BENEFITS IN RESPECT OF FURTHER EMPLOYMENT

1.—(1) There shall be deducted from the amount of the annual allowance payable at the material date to the entitled officer an amount calculated in accordance with the formula—

$$A \times B \times D \text{ or } E \text{ (whichever is the lesser).}$$

(2) Where a lump sum has been paid in respect of the further employment, there shall be deducted from the annual allowance an additional amount calculated in accordance with the formula—

$$A \times C \times D \text{ or } E \text{ (whichever is the lesser).}$$

2. For the purposes of paragraph 1—

(a) A is the period of the additional period of service expressed in years which overlaps the period of pensionable service on which was based the calculation of the benefit referred to in regulation 10(1), where the additional period of service is deemed to commence on the material date;

(b) B is the fraction that was used in the calculation of the annual allowance referred to in regulation 4(2) for each year of the additional period of service;

(c) C is the fraction that was used in calculating the lump sum referred to in regulation 4(3);

(d) D is the entitled officer's remuneration at the material date in respect of which the compensation payable under regulation 4 was calculated; and

(e) E is the entitled officer's remuneration in respect of the further employment by reference to which the benefit referred to in regulation 10(1) was calculated, less an amount calculated in accordance with paragraph 3.

3.—(1) The amount of the deduction from the remuneration in respect of the further employment referred to in paragraph 2(e) shall be calculated by multiplying the amount of that remuneration by a fraction of which—

(a) the numerator is equivalent to the aggregate of the amount of increases which would have been provided for under the provisions of section 59 of the Social Security Pensions Act 1975**(a)** (increase of official pensions) during the period beginning on the material date and ending on the day the further employment terminated, on an official pension of £100 per year which commenced from the material date; and

(b) the denominator is equivalent to the aggregate of an official pension of £100 per year and the amount of the increases so determined.

(2) For the purposes of this paragraph "official pension" shall have the meaning assigned to it by section 5(1) of the Pensions (Increase) Act 1971**(b)** (scope of Act, and general powers to extend and adapt increases).

4. The deduction in accordance with paragraph 1(1) shall be made in such instalments over such a period of time as the Secretary of State may allow.

5. In this Schedule "further employment" means the further employment referred to in regulation 10(1).

(a) 1975 c.60. Section 59 was amended by section 11(1), (2) and (3) of, and paragraph 20 of Schedule 3 to, the Social Security Act 1979 (c.18), paragraph 33 of Schedule 5, and Schedule 6 to the Social Security Act 1985 (c.53), section 9(8) of the Social Security Act 1986 (c.50), sections 1(7) and 5(1) and (2) of the Pensions (Miscellaneous Provisions) Act 1990 (c.7), paragraph 34 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c.6), and paragraph 9(1)(a) and (b) of Schedule 8 to the Pension Schemes Act 1993.

(b) 1971 c.56.

SCHEDULE 2

Regulation 16(1)

REVOCATIONS

Column 1 *Regulations*	*Column 2* *Extent of Revocation*
The National Health Service (Compensation for Premature Retirement) Regulations 1981 (S.I. 1981/1263)	The whole of the Regulations except for paragraphs (1) and (4) of regulation 5
The National Health Service (Compensation for Premature Retirement) Amendment Regulations 1985 (S.I. 1985/1659)	The whole of the Regulations
The National Health Service Superannuation, Premature Retirement and Injury Benefits (Amendment) Regulations 1991 (S.I. 1991/584)	Regulations 8 to 10
The National Health Service (Pension Scheme and Compensation for Premature Retirement) Amendment Regulations 2000 (S.I. 2000/605)	Regulation 16 and, in regulation 1(2), the definition of "the Compensation Regulations"

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with minor amendments, the provisions of the National Health Service (Compensation for Premature Retirement) Regulations 1981. They provide for the payment of compensation to or in respect of a person who was employed in the National Health Service in England and Wales and has prematurely retired from that employment by reason of redundancy or in the interests of the efficiency of the service.

Regulations 1 and 2 make provision for the citation, commencement and interpretation of the Regulations.

Reference is made in the definitions of "employing authority" and "officer" in regulation 2 to the Medical School Employment (Superannuation) Direction 1999, the University of London (Postgraduate Deanery Staff) (Superannuation) Direction 1999, the Postgraduate Education in General Practice (Superannuation) Direction 1999, the University (Postgraduate Deanery Staff) (Superannuation) Direction 1999 and the NHS Executive (Postgraduate Deanery Staff) (Superannuation) Direction 1999. Copies of these Directions may be obtained from The NHS Pensions Agency, Hesketh House, 200/220 Broadway, Fleetwood, Lancashire FY7 8LG.

Regulations 3 to 6 specify the conditions necessary to qualify for and the method of calculation of, the compensation and provide for the calculation of pensionable service in part-time employment.

Regulation 7 enables an officer to surrender part of the annual allowance payable to him under these Regulations in favour of his spouse or other dependant.

Regulations 8 and 9 make provision for the payment of compensation to the widow, widower and certain dependants of, or a person nominated by, an entitled officer if he dies after becoming entitled to receive compensation.

Regulations 10 and 11 and Schedule 1 make provision for the adjustment and reduction in certain cases of the compensation so as to take into account pension benefits, other compensation payments and remuneration paid out of public funds in respect of subsequent employment.

Regulations 12 to 15 make miscellaneous provision relating to the supply of information and documents, the non-assignment of compensation payable under the Regulations, the payment of compensation and the determination of questions arising under the Regulations.

Regulation 16 and Schedule 2 make consequential revocations and savings.

These Regulations do not impose any costs on business.

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