local Acts by substituting benefits similar to those provided by the draft regulations for the benefits of the Act of 1937 or those local Act schemes in relation to superannuable employees on the medical and nursing staff of the local health authorities, and to any other classes of superannuable employees designated by the Secretary of State. Similar provision is made in relation to the superannuable staff employed by education authorities for the purposes of the school health service.

The National Health Service (Scotland) (Superannuation) (Amendment) Regulations, 1948

1948 No. 1464 (S. 123)

Made - - - - 29*th June*, 1948
Coming into Operation 5*th July*, 1948

In exercise of the powers conferred on me by sub-section (1) of section 66 of the National Health Service (Scotland) Act, 1947(**a**), I hereby make the following regulations:—

1.—(1) These regulations may be cited as the National Health Service (Scotland) (Superannuation) (Amendment) Regulations, 1948, and shall come into force on the fifth day of July, 1948.

(2) These regulations shall be read as one with the National Health Service (Scotland) (Superannuation) Regulations, 1948(**b**).

(3) The Interpretation Act, 1889(**c**), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(4) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them:—

" the principal regulations " means the National Health Service (Scotland) (Superannuation) Regulations, 1948, and

" regulation " means regulation contained in the principal regulations.

2. In regulation 1, in paragraph (3) thereof, in the definition of " national service ", there shall be added the words " but does not include, in a case where a person continues his national service otherwise than in pursuance of a legal obligation so to do arising otherwise than by reason of a voluntary undertaking by him to continue it, and the employing authority by whom he was employed immediately before he undertook his national service has notified him in writing that his national service for the purposes of these regulations will be deemed to cease on the expiration of a period of three months after the date of the service of the notification, any part of his national service after the expiration of the said period."

3. In regulation 2, in proviso (ii) (*i*) to paragraph (1) thereof, there shall be substituted for the words " local authority or governing body of a voluntary hospital " the words " authority or body from which functions are transferred by the Act, or under an officer of such an authority or body, or at or for the purposes of any hospital ".

4. In regulation 5—

(*a*) there shall be inserted after the word " applied " where it occurs for the second time the words " or, if the Secretary of State so directs, as a person subject to a scheme approved by the Secretary of State under regulation 15 (3) (*d*) (v) "; and

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(**a**) 10 & 11 Geo. 6. c. 27. (**b**) S.I. 1948 No. 412, p. 2478 above.
(**c**) 52 & 53 Vict. c. 63.

(*b*) the following new paragraphs shall be inserted—

" (2) These regulations, in their application to any mental health officer (not being an officer to whom the last preceding paragraph applies) who has been employed for an aggregate period of at least twenty years as such an officer and before he became such an officer as a person on the staff of a hospital used wholly or partly for the treatment of mental patients or an institution so used for the treatment of defectives devoting the whole or substantially the whole of his time to the treatment or care of such patients or defectives, shall have effect subject to the following modifications:—

(*a*) in regulations 7 and 22 (1), fifty-five years shall be substituted for sixty years; and

(*b*) for the purposes of regulations 8, 11 (2) and 12 the proviso to regulation 13 (1) and regulations 30 (3) and 30 (4), account shall be taken as if it were two years of every year of contributing service as a mental health officer rendered after attainment of the age of fifty years or after the date on which this paragraph becomes applicable, whichever is the later.

(3) In reckoning the aggregate period of a mental health officer's employment for the purpose of this regulation account shall be taken as if it were a period of employment of any period of service which he is entitled to reckon by virtue of the exercise in relation to him of the power conferred by regulation 17 (3) ".

5. In regulation 6—

(*a*) in paragraph (3) thereof, the words " otherwise than by reason of illness or injury " shall be omitted and the following proviso shall be added:—

" Provided that where the absence from duty is by reason of illness or injury the provisions of this paragraph shall not apply, unless the officer's remuneration is reduced solely by reason of his having become entitled to benefit under the National Insurance Act, 1946(**a**); and

(*b*) in paragraph (7) thereof, for the words " an officer ", there shall be substituted the words " a person "; after the word " reckon " there shall be inserted the words " any of "; the words " if his service pay equals or exceeds the remuneration of his former employment " shall be omitted; and there shall be substituted for the words " under this regulation as if " the words " (if any) under this regulation as he would have been liable to make if ".

6. In regulation 8, in proviso (i) to paragraph (3) thereof, and in the substituted regulation 8 as set out in regulation 38 (3)(*e*), in proviso (ii) to paragraph (1) thereof, there shall be substituted for all words after the words " forty years " the words " the pension shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service."

7. In regulation 8 in proviso (iii) to paragraph (4) thereof, and in the substituted regulation 8 as set out in regulation 38 (3) (*e*), in proviso (iv) to paragraph (2) thereof, there shall be substituted for all words after the words " forty years " the words " the amount of the allowance shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service."

8. In regulation 12 in proviso (iii) thereto, and in regulation 38, in proviso (*ii*) to sub-paragraph (*f*) of paragraph (3) thereof, there shall be substituted

(**a**) 9 & 10 Geo. 6. c. 67.

for all words after the words " forty years " the words " the sum shall be obtained by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service."

9. In regulation 15—

(*a*) in proviso (*a*) to paragraph (2) thereof, there shall be inserted after the word " officer " the words " (not being an officer transferred under the Act) ";

(*b*) in proviso (*c*) to paragraph (2) thereof, there shall be inserted after the words " established civil servant " where they first occur, the words " the foregoing provision shall apply as if for the reference to employment or war service or national service which would have been reckonable for the purpose of determining whether a person was entitled to receive a superannuation benefit, there were substituted a reference to employment or war service or national service which would have been reckonable for the purpose of determining whether the officer had served for the minimum period prescribed by the Superannuation Acts(**a**) as necessary for the grant of any retiring award to him and ";

(*c*) the following new paragraph shall be inserted:—

" (6A) Where a person in the employment of an employing authority, not being an officer, ceases to be employed in order to undertake national service, then, if on the termination of that service or within six months thereafter he returns to the employment of any employing authority, the period of his national service shall be taken into account for the purposes of these regulations in the same manner and to the same extent as it would have fallen to be taken into account if he had continued to follow his former employment throughout the period of his national service "; and

(*d*) in paragraph (8) thereof, there shall be inserted after the words " transferred by the Act " the words " or by the National Health Service Act, 1946 "; and after the words " by the Secretary of State under the Act " wherever they occur, the words " or by the Minister of Health under the said Act of 1946 ".

10. In regulation 16, the following new paragraph shall be inserted:—

" (2A) Any part of any national service which is reckonable as a period of service under regulation 15 (6A) in relation to any officer, being a part in respect of which contributions have been made pursuant to regulation 6 (7), shall be reckonable as a period of contributing service."

11. In regulation 17—

(*a*) the following new paragraphs shall be added:—

" (6) Where a person becomes or has become an officer of an employing authority within twelve months after ceasing to be a contributory employee or local Act contributor in the employment of any local authority, the local authority may, within three months after the date on which the person becomes such an officer or if he has become such an officer before the date of the coming into operation of these regulations within three months after that date, exercise in relation to him any power which would have been exercisable in relation to him under paragraph (1) or (2) of this regulation had he been transferred under the Act.

(7) A person in relation to whom a resolution to add years has been passed or a discretion has been exercised pursuant to paragraph (6) of this regulation shall be entitled to reckon as contributing service in

(**a**) 9 & 10 Geo. 6. c. 60.

relation to his employment as such officer as aforesaid any number of years in respect of which the resolution was passed or the discretion was exercised."

12. In regulation 20, in proviso (*b*) to paragraph (1) thereof, there shall be inserted after the words " those contributions " the words " would not have been returnable or ".

13. The following new regulation shall be inserted after regulation 20:—

" Officers ceasing to be employed in consequence of the Act.

20A.—(1) Where an officer ceases to be employed by an employing authority in consequence of the Act without having become entitled to any benefit under these regulations other than a return of his contributions, and no transfer value is payable in respect of him, then, if compensation would be payable to him under regulations made by the Secretary of State under section 67 of the Act but for the fact that he had not been employed in manner thereby prescribed for a period thereby prescribed, he shall be entitled to receive from the Secretary of State a sum equal to the accrued value of his prospective rights under these regulations, less the amount of any contributions and interest to which he has become entitled pursuant to these regulations.

(2) For the purposes of the last preceding paragraph, the accrued value of an officer's prospective rights under these regulations shall be treated as being an amount equal to the amount of the transfer value which would have been payable in respect of him under regulation 50 had that regulation become applicable or, if he was a person to whom regulation 26 applied, such a sum as the Secretary of State may consider reasonable.

Provided that no account shall be taken of any rights secured by a policy of insurance.

(3) For the purposes of these regulations, any sum received by a person under this regulation shall be treated as if it were a sum paid to him by way of a return of contributions.

(4) Where a person who has received a sum under this regulation gives notice to an employing authority under paragraph (9) of regulation 15 that he intends to make payments in accordance with that paragraph, he shall not be entitled to make such payments unless forthwith on giving such notice he pays to the employing authority an amount equal to the said sum, together with compound interest thereon, at the rate of two and one half per cent. per annum, calculated, with half yearly rests, as from the date on which the said sum was received."

14. In regulation 21, there shall be substituted for the word " June " the word " April "; and for the word " December " the word " October ".

15. In regulation 24, in paragraph (2) thereof, the words " or who attains pensionable age on, or within three months after, being so transferred " shall be omitted.

16. In regulation 26—

(*a*) in paragraph (2) thereof, there shall be added at the end of the paragraph the words " and in regulation 20A "; and

(*b*) in paragraph (3) thereof, there shall be inserted after the words " immediately succeeding regulation " the words " and regulation 20A ".

17. In regulation 30—

(*a*) the following new provision shall be substituted for proviso (*a*) to paragraph (2) thereof—

" (*a*) in the case of a mental health officer who by virtue of regulation 5 becomes entitled to reckon any year of contributing service as such officer as if it were two years, the amount of the reductions shall be doubled;"; and

(*b*) in paragraph 3 (*b*) thereof the words " on being transferred under the Act or " shall be omitted; there shall be inserted after the words " date of acquisition " the words " or was such a person as is mentioned in paragraph (9) of this regulation "; there shall be inserted after the words " his age " the words " at the appointed day or "; and there shall be inserted after the words " on which he became an officer " where those words first occur the words " whichever is the later."

(*c*) in paragraphs (8) and (9) thereof, there shall be inserted after the words " the Education (Scotland) Act, 1946 ", where they occur, the words " the Scottish Teachers Superannuation Scheme,".

18. In regulation 34, there shall be inserted after the word " person " where it first occurs, the words " (other than a person engaged wholly or mainly on clerical duties) "; and there shall be substituted for the word " officer " the word " employee ".

19. In regulation 38—

(*a*) sub-paragraph (*l*) of paragraph (3) thereof shall be omitted; and

(*b*) the following new sub-paragraph shall be inserted in the said paragraph (3):—

" (*jj*) the proviso to regulation 18 shall not apply in the case of a practitioner."

20. In regulation 43 there shall be substituted for the words " an officer falling within the class mentioned in regulation 40 (1) (*a*) " the words " a contributory employee or local Act contributor on the medical or nursing staff of the authority ".

21. In regulation 44, in paragraph (1) thereof, there shall be inserted after the words " school health service " the words " and he is not a person who has exercised such option as is mentioned in the proviso to regulation 40 (1) or the proviso to regulation 43."

22. In regulation 48, the following new paragraphs shall be inserted:—

" (8A) In the calculation of any transfer value under paragraph (1) or (5) of this regulation, or in the certification under paragraph (2) thereof of any liability of which any superannuation fund has been relieved, account shall be taken of any number of years that may have been added to a person's service under the provisions of regulation 17 as if that number of years had been reckonable as a number of years of contributing service or service, as the case may be, for the purposes of the Act of 1937, the local Act scheme or the Act of 1909 immediately before he ceased to be a contributory employee, local Act contributor or person subject to the Act of 1909.

(8B) Where before the coming into operation of these regulations any transfer value has been paid in respect of a person who has become an officer of an employing authority, and the local authority under whom he was a contributory employee or local Act contributor exercise any power conferred on them by paragraph (6) of regulation 17, the transfer value shall be re-calculated to take account of any years added or any service converted into contributing service by virtue of the exercise of that power.

(8C) Where the amount of any transfer value payable out of a superannuation fund under paragraph (1) of this regulation or the amount of any liability to be certified under paragraph (2) thereof is increased in consequence of the exercise by a local authority of any power conferred upon

them by regulation 17, the local authority, or if that authority has been dissolved, the local authorities who appointed that authority, shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable or in relation to which the liability is to be certified."

23. The following new regulation shall be substituted for regulation 53—

"**53.** Any question arising under these regulations as to the rights or liabilities of an officer or retired officer of an employing authority, or of a person claiming to be treated as such or of the widow, any dependant or the legal personal representatives of an officer or retired officer shall be determined by the Secretary of State."

24. In the Fourth Schedule to the principal regulations—

(*a*) in sub-paragraph (3) of paragraph 6 thereof, there shall be inserted a reference to Table IA, in addition to the references to the Tables there mentioned, and the following new Table shall be inserted after Table I—

"TABLE IA

SERVICE OF A MALE MENTAL HEALTH OFFICER

Age	Amount appropriate in respect of each £100 of remuneration
	£ s. d.
Under 36	8 9 0
36 and under 37	8 10 0
37 " " 38	8 11 0
38 " " 39	8 12 0
39 " " 40	8 13 0
40 " " 41	8 14 0
41 " " 42	8 16 0
42 " " 43	8 17 0
43 " " 44	8 18 0
44 " " 45	9 0 0
45 " " 46	9 2 0
46 " " 47	9 3 0
47 " " 48	9 5 0
48 " " 49	9 7 0
49 " " 50	9 10 0
50 " " 51	9 13 0
51 " " 52	9 17 0
52 " " 53	10 2 0
53 " " 54	10 7 0
54 " " 55	10 12 0
55 " " 56	10 12 0
56 " " 57	10 7 0
57 " " 58	10 2 0
58 " " 59	9 17 0
59 " " 60	9 11 0
60 and over	£9 5s. 0d. less six shillings for each completed year by which the officer's age exceeds sixty years.

(*b*) in the heading of Table I (*a*) the following shall be inserted after the word "Table," viz., "IA or ".

25. In the Fifth Schedule to the principal regulations, in paragraph 1 thereof, there shall be inserted after the words " before that day ", the words " (including any number of years service that may have been added under the provisions of regulation 17) ".

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

29th June, 1948.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations amend the National Health Service (Scotland) (Superannuation) Regulations, 1948. They correct certain anomalies in the principal regulations and make various drafting and minor amendments. In addition, the regulations confer additional rights on persons subject to the provisions of the principal regulations and extend those regulations to additional classes of persons.

Certain mental health officers are entitled under the principal regulations to reckon part of their service at twice its actual length. The class of employment which qualifies an officer for this right is extended (regulation 4). Employees who undertake national service and who were not superannuable when they left their employment are now enabled to become superannuable during their national service, if they would have done so had they continued in their employment (regulation 9 (*c*)). By regulation 17 of the principal regulations local authorities are given power to add years of service or to convert non-contributing service into contributing service in the case of such of their superannuable employees as are transferred under the Act to the central health service. This power is now to be exercisable by them in relation to their employees who transfer at any time (regulation 11). Consequential provisions in respect of transfer values, etc., are made in regulation 22. Where a person ceases to be employed in consequence of the National Health Service (Scotland) Act, and he had not completed a sufficient number of years' service to entitle him to compensation under regulations made under section 67 of the Act, he is to be entitled under the principal regulations to receive the accrued value of his superannuation rights instead of merely a return of the contributions to which he might otherwise be entitled (regulation 13).