(3) Where the referee is of opinion that a hearing is required, the hearing shall take place at such time and place as he may direct and notice of the hearing shall be sent by post to the claimant, the Secretary of State, and, where appropriate, the Committee not less than fourteen days before the date fixed for the hearing.

(4) The claimant and any of the parties to whom notice of the hearing is required to be given shall be entitled to attend and be heard in person or by counsel or solicitor or other representative. The Secretary of State may be represented at the hearing by any duly authorised officer or by counsel or solicitor, and the Committee by any duly authorised member or by counsel or solicitor.

(5) Subject to the provisions of this regulation, the procedure at the hearing shall be such as the referee may determine.

(6) The referee may administer oaths and examine witnesses on oath and may accept in lieu of evidence on oath by any person a statement in writing by that person.

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

St. Andrew's House,
Edinburgh, 1.
19th October, 1949.

EXPLANATORY NOTE

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

These regulations lay down the procedure to be adopted in handling appeals by medical practitioners in connection with their claims for compensation for loss of the right to sell the goodwill of their practices, and prescribe the powers of the referee appointed to decide such appeals.

8. SUPERANNUATION

The National Health Service (Scotland) (Superannuation) (Amendment) Regulations, 1949*

1949 No. 1479 (S. 105)

Made - - - -	28*th July*, 1949
Coming into Operation	1*st August*, 1949

In exercise of the powers conferred on me by subsection (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, 1949, and shall come into operation on the first day of August, 1949.

(a) 10 & 11 Geo. 6. c. 27.

* These regulations were approved by resolution of the House of Commons, 27th July, 1949, and the House of Lords, 25th July, 1949, in accordance with section 73 (2) of the National Health Service (Scotland) Act, 1947.

(2) These regulations, the National Health Service (Scotland) (Superannuation) Regulations, 1948(a), and the National Health Service (Scotland) (Superannuation) (Amendment) Regulations, 1948(b), shall be construed as one, and may be cited together as the National Health Service (Scotland) (Superannuation) Regulations, 1948 and 1949.

(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, as amended by the National Health Service (Scotland) (Superannuation) (Amendment) Regulations, 1948; and

"regulation" means regulation contained in the principal regulations.

2. In regulation 1—

(*a*) in paragraph (3) thereof—

(i) in the definition of "assistant practitioner", there shall be added the words "other than an employee of a medical practitioner for whose employment the consent of the Executive Council is not required";

(ii) for the definition of "national service" the following definition shall be substituted:—

"'national service', in relation to any person, means compulsory national service within the meaning of the Superannuation (Miscellaneous Provisions) Act, 1948(d), and includes any period immediately following the termination thereof during which the person with the consent of the authority or body by whom he was employed before undertaking compulsory national service continues in similar service;" and

(iii) in the definition of "pensionable age" after the word "means", where it first occurs, there shall be inserted the words "for the purposes of the proviso to regulation 8 (1) the age of sixty-five years and for all other purposes"; and

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

"(6) For references in these regulations to a person leaving any employment in order to undertake war service and to the termination of his war service there shall be substituted, in the case of a person who left employment after the thirty-first day of March, 1949, references to his leaving that employment in order to undertake national service and to the termination of his national service."

"(7) Any reference in any of these regulations to a person becoming an officer of an employing authority within twelve months after leaving employment subject to the Act of 1937 or a local Act scheme or within twelve months after ceasing to be a contributory employee or local Act contributor or any reference to the like effect shall be construed in relation to a person to whom section 6 of the Superannuation (Miscellaneous Provisions) Act, 1948, has become applicable

(a) S.I. 1948 (No. 412) I, p. 2478.
(b) S.I. 1948 (No. 1464) I, p. 2564.
(c) 52 & 53 Vict. c. 63.
(d) 11 & 12 Geo. 6. c. 33.

as a reference to his becoming an officer within five years, or such longer period as the Secretary of State may in any particular case allow, after so leaving such employment or ceasing to be such an employee or contributor as aforesaid."

3. In regulation 2—

(*a*) in paragraph (1) (*c*) and (1) (*d*) thereof, references to a person being transferred under the Act shall be construed as including references to his entering employment under an employing authority in consequence of the acquisition by the Secretary of State under section 57 of the Act of any premises at or for the purposes of administering the services provided at which he was employed at the date of acquisition; and

(*b*) the following new paragraph shall be added—

"(3) Notwithstanding anything in the foregoing provisions of this regulation, this part of these regulations shall not apply to any officer of an employing authority who is in receipt of a pension payable out of public funds to which he became entitled on retirement after the attainment of a specified age and which is not liable to be reduced or suspended in consequence of his employment under that authority:

Provided that this paragraph shall not apply to a person who has become an officer of an employing authority before the first day of August, 1949."

4. In regulation 5—

(*a*) in sub-paragraph (*b*) of paragraphs (1) and (2) thereof, there shall be inserted after the words "and regulations" the figures "15 (11),"; and

(*b*) the following new paragraph shall be added—

"(4) Where a person becomes an officer otherwise than in the capacity of a mental health officer within twelve months after ceasing to be a mental health officer to whom paragraph (1) or (2) of this regulation was applicable, the provisions of sub-paragraph (*b*) of either paragraph (1) or paragraph (2), as the case may be, shall continue to apply to him so long as he remains without a break of more than twelve months at any one time an officer in the employment of any employing authority."

5. In regulation 6, in paragraph (2) thereof, the following proviso shall be added—

"Provided that the provisions of this paragraph shall not apply, or shall cease to apply to an officer who has suffered a reduction in his remuneration in the circumstances aforesaid, if at the time of such reduction, or within twelve months thereafter, he enters other employment in circumstances in which a transfer value is payable in respect of him under these regulations."

6. In regulation 8—

(*a*) in sub-paragraph (*c*) of paragraphs (3) and (4) thereof, there shall be inserted after the words "each year" and the words "that year" the words "or part of a year";

(*b*) in proviso (ii) to paragraph (4) thereof, there shall be inserted after the words "each year", where those words last occur, the words "or part of a year"; and

(*c*) the following new paragraphs shall be added—

"(5) Where the retiring allowance paid to a married male officer has been calculated in accordance with the provisions of proviso (*a*) to paragraph (2) or proviso (i) to paragraph (4) of this regulation, and his wife becomes entitled to a pension under these regulations, there shall be paid to him a sum equal to two-thirds of the difference between the amount of the retiring allowance so paid to him and the amount of the retiring allowance which would have been paid to him had he not been a person to whom the said provisions applied."

"(6) Where an officer has become entitled to a pension and a retiring allowance, and the amount of such allowance, together with the capital value of the pension, is less than the amount of his average remuneration, then, if he requests the Secretary of State in writing to apply this provision in his case, the Secretary of State may either increase the amount of the retiring allowance by the amount of the present capital value of the death gratuity and of any widow's pension which would apart from this provision become payable on his death or increase the amount of the pension by an equivalent annual sum, and if the Secretary of State exercises this discretion no death gratuity or widow's pension shall be payable in respect of him."

7. In regulation 9—

(*a*) in paragraph (1) thereof, there shall be substituted for the words "without his own default, and specifically attributable to the nature of his duty" the words "specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, or by a disease which he has contracted and to which he was exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct"; and

(*b*) the following new paragraph shall be added—

"(3) If such a person as is mentioned in paragraph (1) of this regulation dies as a direct result of the injury he sustained or the disease he has contracted, the Secretary of State may grant to his widow such gratuity or annual allowance as he may consider reasonable having regard to all the circumstances of the case, including any right to any benefit under the National Insurance (Industrial Injuries) Act, 1946(a), or any other statutory right to benefit or compensation, or any right to superannuation benefits, whether under these regulations or otherwise."

8. In regulation 12—

(*a*) in proviso (i) thereto, there shall be added the words—

"or, if the capital value of the widow's pension is less than the amount of the death gratuity which would have been payable apart from this proviso, a sum equal to the difference between such capital value and such amount, whichever of the two sums is the greater"; and

(a) 9 & 10 Geo. 6. c. 62.

(*b*) in item (*iii*) of proviso (ii) thereto, there shall be inserted after the words "each year" and the words "that year" the words "or part of a year".

9. In regulation 15—

(*a*) in paragraph (2) thereof, the following provisos shall be added—

"(*e*) where a person becomes or has become an officer of an employing authority within twelve months after ceasing to be a contributory employee in the employment of any local authority, and by virtue of the provisions of a scheme modifying the Act of 1937, any period of employment is or was reckonable at a fraction of its actual length for the purpose of calculating the transfer value payable or paid in respect of the officer under these regulations, that fraction only of that period of employment shall be reckonable as service for the purpose of these regulations; and

(*f*) where a person has ceased to hold employment as an officer of an employing authority but continues in the employment of that authority otherwise than as an officer, the reference in this paragraph to a period of twelve months after a person left such first mentioned employment shall be construed in relation to the person as a reference to a period of twelve months after his leaving such last mentioned employment";

(*b*) in paragraph (3) thereof, the following proviso shall be added—

"Provided that a person who has been in such employment as is mentioned in head (v) of sub-paragraph (*d*) of this paragraph shall not be treated as having been in such employment unless the Secretary of State so directs";

(*c*) in paragraph (8) thereof, there shall be inserted after the word "hospital", wherever it occurs, the words "or premises", and there shall be substituted (*a*) for the words "of which" the words "of administering the services provided at which" and (*b*) for the word "has" the words "has or have"; and

(*d*) the following new paragraphs shall be added—

"(11) Notwithstanding the preceding provisions of this regulation, where an officer, not being a female nurse or physiotherapist, midwife or health visitor, has not attained the age of sixty years, or if the officer is a mental health officer the age of fifty-five years, and he has completed forty years' service, any non-contributing service being reckoned at half its actual length, the period of his employment between the date on which he completes that service and the date on which he attains such age as aforesaid shall not be reckonable as service for any of the purposes of these regulations."

"(12) Where a person who, before entering the employment in relation to which he is an officer, was in employment subject to any such scheme as is mentioned in paragraph (3) (*d*) (v) of this regulation and paragraph (2) thereof applies to him, then, if prior to his entering such last mentioned employment the person was a contributory employee or local Act contributor and by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948, he might, if he had become entitled to a pension in respect of that employment, have been granted a pension

under the Act of 1937 or a local Act scheme, he shall be entitled to reckon as service in relation to the employment in which he is an officer any period of employment or any period of war service or national service which would have been reckonable for the purpose of calculating the last mentioned pension."

10. In regulation 19, in proviso (*g*) thereto, there shall be substituted for the words "whole-time", where they first occur, the words "any other", and for the words "the whole-time" the words "that other".

11. The following new regulations shall be inserted after regulation 23—

"*Re-employment of pensioner by employing authority*

23A.—(1) Where a person who has become entitled to a pension, retiring allowance or injury allowance under these regulations again becomes an officer of an employing authority, he may, if he so elects, as from the date on which he ceases to be such an officer, be entitled to benefits in accordance with the following provisions of this regulation in lieu of any pension or injury allowance to which he has become entitled as aforesaid and of any benefits to which he might otherwise be entitled under these regulations in respect of his service as such officer.

(2) A person to whom the preceding paragraph applies shall be entitled on ceasing to be an officer to receive the like benefits as he would be entitled to receive if the service in respect of which he previously became entitled to a pension, retiring allowance or injury allowance were reckonable in addition to his service as such officer:

Provided that if the person had previously been entitled to a retiring allowance under these regulations, the retiring allowance to which he becomes entitled by virtue of this paragraph shall be reduced by the amount of the first mentioned retiring allowance.

(3) Where a person who has become entitled to benefits under this regulation dies, regard shall be had for the purposes of the application of proviso (v) to regulation 12 of any payments made on account of any pension, retiring or injury allowance to which he had previously been entitled.

(4) If a person to whom paragraph (1) of this regulation applies had taken advantage of the provisions of regulation 11 in relation to any pension or injury allowance to which he had previously become entitled as aforesaid, no title to any pension shall accrue by reason thereof.

23B.—(1) Where a person who is entitled to a pension or injury allowance payable out of public funds, whether under these regulations or otherwise, becomes an officer of an employing authority, and his pension or allowance is on that account reduced or suspended, then, unless he is a person to whom the last preceding regulation applies and he has made an election thereunder, the service in respect of which that pension or allowance was granted shall be reckonable for the purpose of determining whether the person is entitled to receive any benefit under these regulations, but for no other purpose.

(2) In the calculation of any benefit payable to or in respect of such a person under these regulations, whether by virtue of the preceding paragraph or otherwise, account shall not be taken of any number of years of service under these regulations by which those years, together with the years of service in respect of which the pension aforesaid was granted, exceed forty-five years:

Provided that where the said pension was granted to a first class officer under the Act of 1909, the number of years in respect of which the pension was granted shall be multiplied by six-fifths, and any fraction of a year shall be disregarded.

(3) Where a benefit, other than a short service gratuity, becomes payable to or in respect of a person to whom this regulation applies, any provision of these regulations prescribing a minimum benefit or a method of calculating the benefit otherwise than by reference to the amount of the person's contributions or the service reckonable by him or the amount of the pension which was or would in certain circumstances have become payable to him shall be disregarded.

(4) Where a short service gratuity becomes payable to a person to whom this regulation applies, and the service which he is entitled to reckon for the purpose of calculating any benefit under these regulations is less than five years, the short service gratuity shall be reduced in the same proportion as the difference between the number of years of service so reckonable as aforesaid and five years bears to five years.

(5) Where a person who has become entitled to benefits under this regulation dies, no regard shall be had for the purposes of the application of proviso (v) to regulation 12 to any payments made on account of any pension, retiring or injury allowance to which he became entitled before last becoming an officer.

(6) Notwithstanding anything in this regulation, the benefits payable under these regulations to or in respect of a person shall not be less than the benefits which would have been payable had this regulation not been made.

23C. Where such a person as is mentioned in regulation 23A dies while still an officer, the benefits payable in respect of him shall be calculated as if immediately before his death he had become entitled to a pension under regulation 23A or a pension under regulation 23B, whichever method of calculation is the more favourable."

12. In regulation 24—

(*a*) in paragraph (1) thereof, there shall be inserted after the words "transferred under the Act, becomes" the words "or in consequence of the acquisition by the Secretary of State under section 57 of the Act of any premises at or for the purposes of administering the services provided at which he was employed at the date of acquisition becomes or has become", and after the words "after becoming such officer" the words "or if he has become such officer before the first day of August, 1949, otherwise than on being transferred under the Act, within three months after that day";

(*b*) in paragraph (2) thereof, there shall be inserted after the words "transferred under the Act" the words "or becoming an officer in consequence of the acquisition by the Secretary of State under section 57 of the Act of any premises at or for the purposes of administering the services provided at which he was employed at the date of acquisition"; and

(*c*) the following new paragraph shall be added—

"(3) Where a person to whom paragraph (1) of this regulation applies becomes entitled to a pension or injury allowance, the conditions prescribed by regulations 22, 23 and 23A shall not apply in

relation thereto, but in lieu thereof any corresponding conditions prescribed by the enactment or scheme to which he was subject immediately before becoming an officer shall attach to the pension or allowance as if it had been granted under that enactment or scheme, and as if any employment as an officer of an employing authority, whether before or after his becoming entitled to the pension or allowance, were employment in the capacity in which he was subject to the said enactment or scheme."

13. In regulation 26—

(*a*) in paragraph (1) (*c*) thereof, there shall be inserted after the word "hospital" the words "or premises", and there shall be substituted for the words "of which" the words "of administering the services provided at which"; and

(*b*) in paragraph (3) thereof, there shall be substituted for the word "immediately", where it first occurs, the words "within twelve months".

14. In regulation 27—

(*a*) after the word "hospital", wherever it occurs, there shall be inserted the words "or premises";

(*b*) in paragraph (1) thereof, there shall be substituted for the words "of which" the words "of administering the services provided at which"; and for the word "has" the words "has or have"; and

(*c*) in paragraph (2) thereof, there shall be inserted after the words "part III or IV of these regulations applies" the words "or in the case of a person who has entered employment in which he is a participant in a superannuation scheme in Northern Ireland approved by the Secretary of State under regulation 47 in respect of whom the Secretary of State has paid a sum under that regulation, as a pensionable officer of an employing authority within the meaning of regulations made by the Ministry of Health and Local Government under section 61 (1) of the Health Services Act (Northern Ireland), 1948(**a**)".

15. In regulation 30—

(*a*) in paragraph (3), in sub-paragraph (*b*) thereof, there shall be inserted after the word "hospital" the words "or premises", and there shall be substituted for the words "of which", where they first occur, the words "of administering the services provided at which"; and

(*b*) the following new paragraph shall be added—

"(11) Where a person becomes an officer of an employing authority within twelve months after leaving such employment as is mentioned in regulation 15 (3) (*d*) (v), or, if he left that employment in order to undertake war service or national service within six months after the termination of that service, and in that employment he was an insured person within the meaning of the National Insurance Act, 1946(**b**), or any corresponding enactment in force in the part of His Majesty's dominions in which he was employed, then—

(*a*) if he had been excepted from the operation of any provision (hereinafter called "the modification provision") of the scheme to which he was subject modifying the benefits provided by the scheme in relation to any such insured person as aforesaid,

(a) 1948 ch. 3. (b) 9 & 10 Geo. 6. c. 67.

paragraph (1) of this regulation shall not apply in relation to him so long as he is an officer of an employing authority without a break of more than twelve months at any one time;

(*b*) if he had not been so excepted—

(i) the provisions of this regulation shall apply to him as if any service which he becomes entitled to reckon under these regulations, being service of which account would have been taken under the modification provision for the purpose of reducing any benefit to which the person might have become entitled under the said scheme had he continued to be subject thereto, were contributing service rendered on or after the fifth day of July, 1948; and

(ii) if the modification provision modified any benefit to which he might have become entitled under the said scheme by reference to a Table and to his age at a given date, this regulation shall have effect as if he was a person to whom paragraph (3) (*b*) thereof applied, except that the reference therein to his age at a given date shall be construed as a reference to his age at the date which was relevant for the purposes of the modification provision".

16. In regulation 34, the words "(other than a person engaged wholly or mainly on clerical duties)" shall be omitted; for the word "employee" there shall be substituted the word "officer"; and regulation 18 of the National Health Service (Scotland) (Superannuation) (Amendment) Regulations, 1948, is hereby revoked.

17. In regulation 38—

(*a*) in paragraph (2) thereof—

(i) there shall be inserted after the words "payments made" the words "by the Executive Council"; and

(ii) in the proviso thereto, the words "and particulars of the agreement are disclosed to the Executive Council" shall be omitted, and there shall be inserted after the word "shall" the words "if such practitioners assent by notice in writing given to the Executive Council";

(*b*) in paragraph (3)—

(i) in sub-paragraph (*e*) thereof, in the substituted regulation 8:— (i) in sub-paragraph (*a*) of paragraphs (1) and (2) thereof, there shall be inserted after the words "each year" and the words "that year" the words "or part of a year"; and (ii) the following new paragraphs shall be added—

"(3) Where the retiring allowance paid to a practitioner has been calculated in accordance with the provisions of proviso (i) to the last preceding paragraph, and his wife becomes entitled to a pension under these regulations, there shall be paid to him a sum equal to two-thirds of the difference between the amount of the retiring allowance so paid to him and the amount of the retiring allowance which would have been paid to him had he not been a person to whom the said provisions applied."

"(4) Where a practitioner has become entitled to a pension and a retiring allowance, and the amount of such allowance, together with the capital value of the pension, is less than the amount of his average remuneration, then, if he requests the Secretary of State in writing to apply this provision in his case,

the Secretary of State may either increase the amount of the retiring allowance by the amount of the present capital value of the death gratuity and of any widow's pension which would apart from this provision become payable on his death or increase the amount of the pension by an equivalent annual sum, and if the Secretary of State exercises this discretion no death gratuity or widow's pension shall be payable in respect of him";

(ii) in item (i) of paragraph (*f*) thereof, there shall be inserted after the words "each year" and the words "that year" the words "or part of a year";

(iii) in sub-paragraph (*g*) thereof, there shall be added the words "and the remuneration received in respect of that non-contributing service being reckoned at half its actual amount";

(iv) in sub-paragraph (*h*) thereof, the following proviso shall be added—

"Provided that if as a term or condition of his employment as such officer he is required to account to the employing authority for any remuneration received by him as such practitioner, that remuneration shall not be treated as remuneration for the purposes of this regulation"; and

(v) in sub-paragraph (*j*) thereof, there shall be inserted after the words "that fraction shall" the words "for all the purposes of these regulations except the provisions of sub-paragraph (*a*) and sub-paragraph (*c*) of paragraphs (3) and (4) of regulation 8, proviso (ii) to paragraph (4) of regulation 8, item (*iii*) of proviso (ii) to regulation 12, paragraphs (1) and (2) of regulation 8 as substituted by sub-paragraph (*e*) of this paragraph and item (i) of sub-paragraph (*f*) of this paragraph,"; and

(*c*) the following new paragraph shall be added—

"(6) Where a person rendering specialist services pursuant to section 3 of the Act would but for the provisions of the last preceding paragraph have been entitled to make such a request as is mentioned in sub-paragraph (*m*) of paragraph (3) of this regulation, he shall be entitled to make such request to the Secretary of State within three months after the first day of August, 1949, and if he makes such request and the Secretary of State takes action accordingly under the said sub-paragraph, there shall be returned to him any contributions which he has made under these regulations as if he had ceased to be a practitioner at the date on which he makes such request."

18. In regulation 41—

(*a*) in paragraph (1) thereof, the following proviso shall be added:—

"Provided that in the application of any regulation in Part I of these regulations for the purposes of this paragraph, references to pensionable age shall be construed as references to the age of compulsory retirement.";

(*b*) the following new paragraph shall be added—

"(1A) Where a benefit has become payable under the preceding paragraph before the first day of August, 1949, then, if the benefit would have been greater had it been calculated in accordance with the provisions of the proviso thereto, the benefit shall be recalculated as from that date in accordance with those provisions"; and

(*c*) in paragraph (4) thereof, the following proviso shall be added—

"Provided always that where the officer is re-employed by any local authority and is in his new employment a contributory employee or local Act contributor, regulation 5 of the Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) (Scotland) Regulations, 1939(a), shall apply with any necessary modifications."

19. In regulation 42, in paragraph (1) thereof, the following proviso shall be added—

"Provided that the terms and conditions of any such admission as aforesaid may contain provision that any previous period of employment by the organisation of an employee so admitted as aforesaid shall only be reckonable as service in such manner and to such extent as may be agreed between the local health authority and the organisation."

20. In regulation 45, the following new paragraph shall be added—

"(4) Where a person to whom paragraph (1) of this regulation applies was in the employment he has left a person to whom sub-paragraph (*b*) of either paragraph (1) or paragraph (2) of regulation 5 applied and is in the employment he has entered an employee of a local health authority, the Act of 1937 or local Act scheme in its application to him shall be modified so as to confer upon him rights corresponding with those conferred by the said sub-paragraph."

21.—(1) In the cross heading to regulation 47 the word "other" shall be substituted for the word "non-statutory".

(2) In regulation 47—

(*a*) in paragraph (1) thereof, there shall be inserted after the words "employing authority" the words "or if he so ceased in order to undertake national service within six months after the termination of that service", and there shall be substituted for the words "and to comply with" the words "and unless the Secretary of State dispenses with this requirement to comply with";

(*b*) in paragraph (2) thereof, there shall be inserted after the words "employing authority" the words "or on the termination of his national service, as the case may be", and there shall be inserted after the words "under these regulations", where they last occur, the words "and a sum equal to any income tax or equivalent sum which was deducted in respect of such payment";

(*c*) in paragraph (3) thereof, there shall be substituted for the words "contributions under these regulations" the word "sum", there shall be inserted after the words "administering the scheme" the words "under the last preceding paragraph in respect of his contributions under these regulations, together with an amount equal to any income tax or equivalent sum which was deducted in respect of such return" and there shall be added the words "and as contributing service any period of national service after so ceasing to be employed";

(*d*) the following new paragraph shall be inserted—

"(3A) The provisions of the last preceding paragraph shall not apply if the scheme in which a person to whom paragraph (1) of this regulation has been applied has ceased to participate is a scheme which has been approved by the Secretary of State under regulation 15 (3) (*d*) (v)";

(a) S.R. & O. 1939 (No. 450) II, p. 2627.

(*e*) in paragraph (4) thereof—

(i) there shall be inserted, after the words "employing authority", where they first occur, the words "or if he so ceased in order to undertake national service within six months after the termination of that service";

(ii) the following new sub-paragraph shall be inserted—

"(*aa*) if he ceases to hold that employment or any other employment approved by the Secretary of State for the purposes of this paragraph and by reason of his age he does not qualify for a benefit under the provisions of the preceding sub-paragraph but he becomes entitled to a pension under any pension scheme applicable to him in that employment, the Secretary of State may grant to him, as from the date on which he ceased to hold that employment, a benefit equal to the benefit to which he would have become entitled on ceasing to hold his former employment, if at the date on which he so ceased he had attained the age of sixty years and had been entitled for the purpose of determining whether he was qualified to receive any benefit under these regulations to aggregate with his service for the purposes thereof a period of service equal in length to the period of his approved employment;"

(iii) in sub-paragraph (*c*) thereof, there shall be added the words "and he shall be entitled to reckon the period of his approved employment for the purpose of determining whether he is qualified to receive any benefit under these regulations, but not for any other purpose"; and

(iv) for the proviso thereto, the following provisos shall be substituted—

"Provided that—

(i) where a person has qualified for a benefit by virtue of sub-paragraph (*aa*) of this paragraph, that benefit, if the Secretary of State grants the same, shall either be reduced, according to his age, by the percentage shown in the appropriate column of the Tables set out in the Tenth Schedule to these regulations or not become payable until he attains such an age as would have entitled him to a similar benefit under sub-paragraph (*a*) of this paragraph, so however that any such reduction shall be disregarded in the calculation of any widow's pension which may become payable in respect of the person;

(ii) in the calculation of any benefit granted by the Secretary of State to or in respect of any person by virtue of sub-paragraph (*a*) or (*b*) of this paragraph, any provision of these regulations prescribing a minimum benefit or a method of calculating the benefit otherwise than by reference to the amount of the person's contributions or the service reckonable by him or the amount of the pension which was or would in certain circumstances have become payable to him shall be disregarded; and

(iii) where a benefit becomes payable to or in respect of a person to whom sub-paragraph (*c*) of this paragraph has become applicable, and the amount of that benefit falls to be calculated by reference to any provision of these regulations prescribing a minimum benefit or a method of calculating the benefit otherwise than by reference to the amount of the person's contributions or the service reckonable by him or

the amount of the pension which was or would in certain circumstances have become payable to him, then, if the number of years of service reckonable by the person is less than any minimum number of years of qualifying service prescribed for the receipt of the said benefit, the amount of the said benefit, in so far as it is obtained by reference to the said provision, shall be reduced in the same proportion as the difference between the number of years of service so reckonable as aforesaid and the minimum number of years of qualifying service bears to the minimum number of years of qualifying service"; and

(*f*) the following new paragraph shall be added—

"(5) Notwithstanding the provisions of regulation 20, no payment shall be made thereunder by way of a return of contributions to any person who enters employment in which the last preceding paragraph has become applicable to him unless and until he ceases to hold that employment in circumstances in which he does not become entitled to any benefit under these regulations."

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

"(1A) The provisions of the last preceding paragraph requiring the payment of a transfer value shall apply in relation to a person to whom regulation 15 (12) applies as if he had become an officer of an employing authority within twelve months after ceasing to be a contributory employee or local Act contributor:

Provided that the transfer value payable in respect of the person shall be calculated by reference to his age at the date on which he becomes an officer."

"(8D) Where a person becomes or has become an officer of an employing authority within twelve months after ceasing to be a contributory employee in the employment of any local authority, and a scheme modifying the Act of 1937 conferred a discretion on the local authority by whom he was formerly employed to increase in respect of any period of service the rate for the calculation of any benefit to which he might have become entitled on ceasing to be employed, and that period of service was or would but for the provisions of this paragraph be reckonable as a fraction of its actual length for the purpose of calculating the transfer value payable by the authority under this regulation, the authority may, within three months after the person becomes such an officer or, if he has become such an officer before the first day of August, 1949, within three months after that date, resolve that that period of service shall for that purpose be reckonable at its full length, and any transfer value already paid shall be recalculated accordingly, and the authority shall repay to the superannuation fund maintained by them the amount of any increase in the transfer value in consequence of their exercise of the power conferred by this paragraph.

(8E) Notwithstanding anything in the Act of 1937 or any local Act scheme, no payment shall be made thereunder by way of a return of contributions to any person in relation to whom a transfer value has become payable under this regulation."

23. In regulation 49, in paragraph (2) thereof, there shall be inserted after the words "Life Assurance Companies" the words "or if he so ceased in order to undertake national service, within six months after the termination of that service,".

24. In regulation 58, the following new paragraph shall be added—

"(2) Where an officer of an employing authority, not being a person to whom regulation 15 (12) applies, had previously been a contributory employee or local Act contributor and on ceasing to be such an employee or contributor entered employment in circumstances in which by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948, superannuation benefits might have been granted to or in respect of him under the Act of 1937 or a local Act scheme on his leaving that employment or on his death, then, if he became an officer within twelve months after leaving that employment, the said rules shall have effect as if any reference therein to his ceasing to hold that employment or to his becoming entitled to a pension under any pension scheme applicable to him in that employment or to his dying while still in that employment included a reference to his ceasing to be an officer or to his becoming entitled to a pension under these regulations or to his dying while still an officer."

25.—(1) In regulations 6 (1) and 11 (2), the proviso to regulation 13 (1) and regulations 15 (1) and 19, otherwise than in their application to practitioners, references to pensionable age shall be construed as references to an age greater by five years than pensionable age or, in the case of a person who before attaining such greater age has completed forty-five years contributing service or forty-five years contributing and non-contributing service, the non-contributing service being reckoned at half its actual length, his age at the date on which he completed such service or if that age is less than pensionable age then pensionable age.

(2) Where an officer of an employing authority reached pensionable age on or after the appointed day, then if he is such an officer on the first day of August, 1949, he shall be entitled to reckon the period of his employment from the date on which he reached pensionable age until the first day of August, 1949, as service if within three months after that day he pays to the employing authority a sum equal to the amount of the contributions he would have been required to make in respect of that period of employment had he not reached pensionable age, and if he pays such sum he shall be deemed to have made the contributions required by the principal regulations in respect of that period of employment.

(3) In regulation 8, in the proviso to paragraph (1) thereof, there shall be substituted for the words "forty-eightieths" the words "forty-five-eightieths".

(4) In regulations 8, 11 (2), 12, 13, 30 (4) and 38 (3) there shall be substituted for the word "forty", wherever it occurs, the word "forty-five".

(5) This regulation shall not apply in relation to any person to whom Part III or Part IV of the principal regulations applies, or to any person who is or was over pensionable age on the date on which he first becomes or became an officer not being a person who before becoming an officer was entitled to a pension or injury allowance payable out of public funds, otherwise than under the National Insurance Acts, 1946, or who, apart from this regulation, might become entitled to a pension under the principal regulations.

26. In the Seventh Schedule to the principal regulations, in paragraph (1) thereof—

(*a*) in proviso (*c*) to the definition of "remuneration" there shall be substituted for the words "a single" the word "any"; and

(*b*) in the definition of "contributing service", there shall be added the words "and in relation to such a person as is mentioned in paragraph (4)

of regulation 45 shall be construed as including any additional years of contributing service which the person becomes entitled to reckon by virtue of that paragraph".

27. After the Ninth Schedule to the principal regulations, there shall be inserted the following new Schedule—

TENTH SCHEDULE

PART I—PENSION

Age of person at date on which benefit under regulation 47(4)(*aa*) accrues:—	Percentage reduction to be made under proviso (i) to regulation 47(4) by reference to the under-mentioned minimum age at which the person would have been entitled to a pension under these regulations in the circumstances therein mentioned:—										
	55	56	57	58	59	60	61	62	63	64	65
45	46	50	53	56	59	62	65	67	69	71	73
46	43	47	51	54	57	60	63	65	67	70	72
47	40	44	48	51	55	58	61	63	65	68	71
48	36	41	45	48	52	56	59	61	63	66	69
49	32	37	42	45	49	53	56	59	61	64	67
50	28	33	38	42	46	50	53	56	59	62	65
51	23	29	34	38	43	47	50	53	57	60	63
52	18	24	30	34	39	43	47	50	54	58	61
53	13	19	25	30	35	39	44	47	51	55	58
54	7	13	20	25	31	35	40	44	48	52	55
55	—	7	14	20	26	31	36	41	45	49	52
56	—	—	7	14	20	26	31	37	41	46	49
57	—	—	—	7	14	20	26	32	37	42	46
58	—	—	—	—	7	14	20	27	32	38	42
59	—	—	—	—	—	7	14	21	27	33	38
60	—	—	—	—	—	—	7	15	21	28	33
61	—	—	—	—	—	—	—	8	15	22	28
62	—	—	—	—	—	—	—	—	8	16	23
63	—	—	—	—	—	—	—	—	—	9	17
64	—	—	—	—	—	—	—	—	—	—	9

PART II—RETIRING ALLOWANCE

Age of person at date on which benefit under regulation 47(4)(*aa*) accrues:—	Percentage reduction to be made under proviso (i) to regulation 47(4) by reference to the undermentioned minimum age at which the person would have been entitled to a retiring allowance under these regulations in the circumstances therein mentioned:—										
	55	56	57	58	59	60	61	62	63	64	65
45	31	33	36	38	41	43	45	47	50	52	54
46	28	31	34	36	39	41	43	45	48	50	52
47	25	28	31	34	37	39	41	44	46	48	50
48	23	26	29	32	35	37	39	42	44	46	49
49	20	23	26	29	32	35	37	40	42	45	47
50	17	20	23	26	29	32	35	38	40	43	45
51	14	18	21	24	27	30	33	35	38	41	43
52	11	14	18	21	24	27	30	33	36	39	41
53	8	11	15	18	22	25	28	31	34	36	39
54	4	8	11	15	19	22	25	28	31	34	37
55	—	4	8	12	15	19	22	26	29	32	35
56	—	—	4	8	12	15	19	23	26	29	32
57	—	—	—	4	8	12	16	20	23	26	29
58	—	—	—	—	4	8	12	16	20	23	26
59	—	—	—	—	—	4	8	12	16	20	23
60	—	—	—	—	—	—	4	9	13	16	20
61	—	—	—	—	—	—	—	5	9	13	17
62	—	—	—	—	—	—	—	—	5	9	14
63	—	—	—	—	—	—	—	—	—	5	10
64	—	—	—	—	—	—	—	—	—	—	5

28.—(1) Where a person became an officer of an employing authority on being transferred under the Act, having immediately before becoming such officer been subject to the provisions of the Superannuation Acts, then, if he has not exercised the option conferred by regulation 24 of the principal regulations, he may, in the event of any Act being passed in the 1948-49 Session of Parliament for amending the Superannuation Acts, exercise that option within three months after the passing of such amending Act as aforesaid, and if he exercises that option, the reference in regulation 24 to the enactment previously applicable in his case shall be construed as a reference to the Superannuation Acts as so amended as aforesaid.

(2) Where such a person as aforesaid has exercised the option conferred by regulation 24, the rights enjoyed by him under the principal regulations, as amended, shall, if he so elects within three months after the passing of such amending Act as aforesaid, be treated as including rights corresponding to any rights conferred by any amending Act as aforesaid.

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

St. Andrew's House,
Edinburgh, 1.
28*th July*, 1949.

EXPLANATORY NOTE

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

These regulations in large part make drafting and minor amendments in the regulations in force under section 66 (1) of the National Health Service (Scotland) Act, 1947, with a view further to securing the intention of the principal regulations and to removing anomalies in the operation of those regulations, as previously amended.

The regulations also provide additional benefits for officers who are subject to the regulations and their widows. The following are the most important provisions :—

The Secretary of State is empowered to grant a gratuity or an annual allowance to the widow of a person who dies in consequence of an injury sustained or disease contracted which, had he lived, would have entitled him to receive an annual injury allowance (regulation 7 (*b*)).

Provision is made to enable a person who becomes entitled to a benefit under the regulations (generally a pension and a retiring allowance) and who again becomes subject to the regulations to elect to aggregate his previous service with his current service and on again ceasing to be employed to be granted a single pension and retiring allowance based on his total service (regulation 11 : new regulation 23A).

Provision is also made to enable a pensioner who does not make an election under the foregoing provision or who is in receipt of a pension under some other superannuation scheme and who becomes subject to the regulations and on that account suffers a reduction or suspension of that pension to reckon the service in respect of which that pension was granted as qualifying service for the purposes of the regulations, and thus to become entitled to a pension and retiring allowance in respect of his service under the regulations, an entitlement which would otherwise in few cases have accrued (regulation 11 : new regulation 23B).

Persons who after ceasing to be subject to the regulations may enter approved employment in which they become entitled to a pension. Provision is made in that event for their becoming entitled to a pension in respect of their previous service under the regulations (regulation 21 (2) (*e*) (ii)).

Under the principal regulations, as amended, service after pensionable age (generally sixty-five years) does not count and not more than forty years' service is reckonable for the calculation of superannuation benefits. The regulations provide for an increase by five years of pensionable age for the purpose of reckoning service and increase the permitted maximum number of years of service from forty to forty-five (regulation 25).

---

9. TRAVELLING ALLOWANCES, ETC.

The National Health Service (Travelling Allowances, etc.) (Scotland) Regulations, 1949

1949 No. 2343 (S. 160)

Made - - - -	16*th December*, 1949
Laid before Parliament	16*th December*, 1949
Coming into Operation	16*th December*, 1949

In exercise of the powers conferred on me by the following provisions of the National Health Service (Scotland) Act, 1947(**a**), as amended by Part II of the Schedule to the National Health Service (Amendment) Act, 1949(**b**), namely—

(*a*) subsection (2) of section 39,
(*b*) paragraph 2 of the First Schedule,
(*c*) paragraph 3 of the Second Schedule,
(*d*) paragraph 2 of Part IV of the Fourth Schedule,
(*e*) paragraph 4 of the Sixth Schedule,
(*f*) paragraph 3 of the Seventh Schedule, and
(*g*) paragraph 6 of the Eighth Schedule,

I hereby make the following regulations:—

1. These regulations may be cited as the National Health Service (Travelling Allowances, etc.) (Scotland) Regulations, 1949, and shall come into operation on the 16th day of December, 1949.

2.—(1) In these regulations, unless the context otherwise requires:—

"approved duty" in relation to a member of a body, of a Medical Education Committee or of an Ophthalmic Services Committee means any of the following duties, that is to say—

(*a*) attendance at a meeting of the body or committee as the case may be or of any committee or sub-committee thereof;
(*b*) the doing of any other thing approved by the body or committee as the case may be for the purpose of or in connection with the discharge of the functions of the body or committee or of any committee or sub-committee thereof;
(*c*) in the case of a member of the body or committee as the case may be, attendance as a representative of the body or committee at a

(**a**) 10 & 11 Geo. 6. c. 27. (**b**) 12, 13 & 14 Geo. 6. c. 93.