19. SUPERANNUATION

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

1948 No. 1474

Made - - - -	*30th June*, 1948
Coming into Operation	*1st July*, 1948

107974.

The Minister of Health, in exercise of the powers conferred on him by subsection (1) of section 67 of the National Health Service Act, 1946(a), hereby makes the following regulations in the terms of a draft duly approved by resolution of each House of Parliament:—

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

(2) These regulations and the National Health Service (Superannuation) Regulations, 1947(b), shall be construed as one, and may be cited together as the National Health Service (Superannuation) Regulations, 1947 and 1948.

(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 (Superannuation) Regulations, 1947; and

" regulation " means regulation contained in the principal regulations.

2. A person who by virtue of any employment would be an officer within the meaning of the principal regulations shall not be treated as such if he is a Chaplain to whom the Clergy Pensions Measure, 1948, applies.

3. In regulation 1, in paragraph (3) thereof—

(*a*) in the definition of " mental health officer ", there shall be added the words " and any officer employed as the Regional Psychiatrist by a Regional Hospital Board who immediately before entering their employment as such, whether before or after the date of these regulations, was such an officer as aforesaid or was an officer to whom the Superannuation (Prison Officers) Act, 1919(d), applied and had been such an officer for an aggregate period of not less than ten years "; and

(*b*) 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

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(a) 9 & 10 Geo. 6. c. 81.
(b) S.R. & O. 1947 (No. 1755) I, p. 1373.
(c) 52 & 53 Vict. c. 63.
(d) 9 & 10 Geo. 5. c. 67.

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."

4. 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 ".

5. In regulation 4—

(*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 Acts, 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 " as if " the words " (if any) as he would have been liable to make if ".

6. In regulation 6, in proviso (*c*) to paragraph (2) thereof, and in regulation 10, in proviso (iv) thereto, there shall be substituted for the words " being reckoned at double its actual length " the words " being reckoned as contributing service."

7. In regulation 6, in proviso (i) to paragraph (3) thereof, and in the substituted regulation 6 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."

8. In regulation 6, in proviso (iii) to paragraph (4) thereof, and in the substituted regulation 6 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."

9. In regulation 8, the words " more than " and the words " unless he is entitled to a retiring allowance " shall be omitted, and the following proviso shall be added:—

" Provided that if the officer is also entitled to a retiring allowance, the short service gratuity shall be reduced by the amount of the said allowance."

10. In regulation 10, in proviso (iii) thereto, and in regulation 38, in proviso (*ii*) to sub-paragraph (*f*) of paragraph (3) thereof, there shall be substituted 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."

(a) 9 & 10 Geo. 6. cc. 62 and 67.

11. In regulation 13—

(*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 (*d*) 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 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 (Scotland) Act, 1947,"(a) and after the words " by the Minister under the Act " wherever they occur, the words " or by the Secretary of State under the said Act of 1947 ".

12. In regulation 14, the following new paragraph shall be inserted:—

" (2A) Any part of any national service which is reckonable as a period of service under regulation 13 (6A) in relation to any officer, being a part in respect of which contributions have been made pursuant to regulation 4 (7), shall be reckonable as a period of contributing service."

13. In regulation 15, 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 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."

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

14. In regulation 18—

(*a*) in proviso (*b*) to paragraph (1) thereof, there shall be inserted after the words " those contributions " the words " would not have been returnable or "; and

(*b*) in paragraph (2) thereof, there shall be omitted—

(i) sub-paragraph (*b*);

(ii) the words " in the case mentioned in sub-paragraph (*a*) of this paragraph "; and

(iii) all words (including the proviso) after the words " compound interest thereon " in line 11.

15. The following new regulation shall be inserted after regulation 18:—

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

18A.—(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 Minister under section 68 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 Minister 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 49 had that regulation become applicable or, if he was a person to whom regulation 24 applied, such a sum as the Minister 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 13 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."

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

" (5) The proceedings on any reference to a referee or board of referees under the last preceding paragraph shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889-1934, applies."

17. In regulation 22, in paragraph (2) thereof, the words " or who attains pensionable age on, or within three months after, being so transferred " shall be omitted.

18. In regulation 24—

(*a*) in paragraph (2) thereof, there shall be added at the end of the paragraph the words " and in regulation 18A "; and

(*b*) in paragraph (3) thereof, there shall be added at the end of the paragraph the words " regulation 18A and the next succeeding regulation ".

19. In regulation 28, the words " other than mental health officers " shall be omitted.

20. In regulation 29—

(*a*) the words " attained the age of fifty-five years and " shall be omitted, and there shall be inserted after the word " applied " where it occurs for the second time the words " or, if the Minister so directs, as a person subject to a scheme approved by the Minister under regulation 13 (3) (*d*) (v) "; and

(*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 5 and 20 (1), fifty-five years shall be substituted for sixty years; and

(*b*) for the purposes of regulations 6, 9 (2) and 10, the proviso to regulation 11 (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 15 (3) ".

21. 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 29 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 ".

22. The following new regulations shall be inserted after regulation 33:—

" Application to officers formerly employed in hospitals vested in or requisitioned by the Crown.

33A. For the purposes of these regulations a person who immediately before the appointed day was solely or mainly employed at or for the purposes of any hospital which would have been transferred to the Minister by virtue of the Act but for the fact that the hospital or any interest therein was vested in or requisitioned by the Crown shall, if he becomes on the appointed day an employee of any employing authority, be treated as if he had been transferred under the Act, and employment at or for the purposes of any such hospital shall be treated as if it were employment at or for the purposes of a hospital transferred to the Minister under the Act.

Application to officers formerly employed in the Blood Transfusion Service.

33B. For the purposes of these regulations, a person who enters the employment of an employing authority on the appointed day, having immediately before that day been in employment under the Crown in the Blood Transfusion Service, shall be deemed to have been transferred under the Act to the employment of the employing authority, and the said employment under the Crown shall be deemed to be employment under a body from which functions are transferred by the Act ".

23. 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) ", there shall be substituted for the word " officer " the word " employee " and there shall be substituted for the words " left employment as an established civil servant and entered the employment of the Board " the words " been transferred under the Act to the employment of an employing authority immediately before the date on which this regulation became operative, and as if his former employment had been employment under any authority or body from which functions are transferred by the Act ".

24. In regulation 38—

(*a*) in paragraph (1) thereof, there shall be inserted after the word " practitioner " the words " other than a person rendering specialist services pursuant to section 3 of the Act ";

(*b*) in paragraphs (2) and (3) thereof, the words " subject to the provisions of paragraph (5) of this regulation " shall be omitted;

(*c*) in proviso (ii) to paragraph (2) of the substituted regulation 6, as set out in sub-paragraph (*e*) of paragraph (3) of regulation 38, there shall be inserted after the words " a practitioner who is " the words " a widower or ";

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

(*e*) the following new sub-paragraph shall be inserted in paragraph (3) thereof—

" (*jj*) the proviso to regulation 16 shall not apply in the case of a practitioner "; and

(*f*) for paragraph (5) thereof, there shall be substituted the following paragraph:—

" (5) These regulations in their application to a person who is a practitioner by virtue of being a person rendering specialist services pursuant to section 3 of the Act shall have effect subject to the modifications contained in paragraph (3) of this regulation other than the modifications contained in sub-paragraphs (*h*), (*k*) and (*m*) thereof."

25. In regulation 39—

(*a*) in paragraph (1) (*c*) thereof, after the word " person " there shall be inserted the words " (other than such a person as is mentioned in either of the two preceding sub-paragraphs) "; and

(*b*) the proviso to paragraph (1), and paragraph (2), shall be omitted.

26. In regulation 40—

(*a*) in paragraph (1) thereof, for the words " and any " there shall be substituted the words " or relevant ", the words " extend and " shall be omitted, and after the words " to whom this part applies " there shall be inserted the words " by virtue of his being such a person as is mentioned in sub-paragraph (*a*) or (*b*) of regulation 39 (1) ";

(*b*) the following new paragraph shall be substituted for paragraph (2):—

" (2) The Act of 1937 or relevant local Act scheme shall be further modified in relation to any such officer as aforesaid who is in the employment of a local health authority on the appointed day, and who immediately before that day was a contributory employee or local Act contributor, so as to confer on him rights corresponding to those conferred by regulations 22 and 23, and those regulations shall apply accordingly, with the modification that references to employing authorities in regulation 22 shall be read as references to local health authorities, and with any other necessary modifications "; and

(*c*) the following new paragraph shall be inserted after paragraph (4):—

" (5) The Act of 1937 or relevant local Act scheme shall, if not otherwise applicable, apply in relation to any officer to whom this part applies by virtue of his being such a person as is mentioned in sub-paragraph (*c*) of regulation 39 (1), and in its application to any such officer, whether as so applied or otherwise, shall be modified so as to confer upon him a right corresponding to that conferred by regulation 22, and that regulation shall apply accordingly, with the modification that references to employing authorities shall be read as references to local health authorities, and with any other necessary modifications ".

27. After regulation 40, there shall be inserted the following new regulation—

" 40A.—(1) Where a person, being a contributory employee or local Act contributor in the employment of any local authority, will, if he remains in their employment, be transferred under the Act to the employment of a local health authority, the local authority may at any time before the date of transfer, or within three months thereafter if he is so transferred, exercise in relation to him the power conferred on them by regulation 15 in relation to any person to whom that regulation applies, and that regulation shall apply accordingly for the purpose, with any necessary modifications.

(2) Any number of years added to a person's service under the last preceding paragraph shall be deemed to be a number of years which was reckonable immediately before the date of transfer as contributing service for the purposes of the Act of 1937 or as service for the purposes of the local Act scheme.

(3) Where the amount of any transfer value is increased in consequence of the exercise by a local authority of any power conferred upon them by paragraph (1) of this regulation, the local authority shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable."

28. In regulation 42, there shall be substituted for the words " an officer falling within the class mentioned in regulation 39 (1) (*a*) " the words " a contributory employee or local Act contributor on the medical or nursing staff of the authority ".

29. In regulation 43, 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 regulation 40 (2) or the proviso to regulation 42."

30. In regulation 47, 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 15 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 15, 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 15, 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."

31. 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 Minister."

32. In the Fourth Schedule to the principal regulations—

(*a*) in the 3rd column of Table V, there shall be substituted for the figures " £10 8s." the figures " £10 18s."; and

(*b*) 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. od. less six shillings for each completed year by which the officer's age exceeds sixty years.

33. 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 15)."

34. The principal regulations, as amended by these regulations, shall apply in the Isles of Scilly as they apply in England and Wales.

Given under the official seal of the Minister of Health this thirtieth day of June, 1948.

(L.S.)

Aneurin Bevan,
Minister of Health.

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 (Superannuation) Regulations, 1947. 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.

The benefits conferred upon mental health officers are extended to Regional Psychiatrists employed by Regional Hospital Boards (regulation 3). 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 11 (*c*)). By regulation 15 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 exerciseable by them in relation to their employees who transfer at any time (regulation 13). The power conferred by regulation 15 of the principal regulations is now extended to transfers of employees under the Act from minor local authorities to local health authorities (regulation 27). Consequential provisions in respect of transfer values, etc., are made in regulations 27 and 30. Where a person ceases to be employed in consequence of the National Health Service Act, and he had not completed a sufficient number of years service to entitle him to compensation under regulations made under section 68 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 15). 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 20). Transferred officers enjoy certain special rights under the principal regulations, for example an option to retain pre-transfer superannuation rights. These rights are extended to persons employed in hospitals already vested in the Crown and therefore not transferred to the Minister by virtue of the Act, and to persons employed under the Crown in the Blood Transfusion Service (regulation 22). Persons in the employment of a local health authority on the appointed day are given an option to retain rights corresponding with those enjoyed immediately before the appointed day instead of becoming subject to Part III of the principal regulations (regulation 26).