STATUTORY INSTRUMENTS

1978 No. 1353

NATIONAL HEALTH SERVICE, ENGLAND AND WALES
The National Health Service (Superannuation) (Amendment) Regulations 1978

Made - - -	*14th September* 1978
Laid before Parliament	*15th September* 1978
Coming into Operation	*6th October* 1978

The Secretary of State for Social Services, in exercise of powers conferred by sections 10 and 12 of the Superannuation Act 1972(**a**) and of all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these regulations as appear to him to be appropriate, and with the consent of the Minister for the Civil Service, hereby makes the following regulations:—

PART I
PRELIMINARY

Citation and commencement

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (Amendment) Regulations 1978 and shall come into operation on 6th October 1978:

(2) The National Health Service (Superannuation) Regulations 1961 to 1975(**b**) and these regulations may be cited together as the National Health Service (Superannuation) Regulations 1961 to 1978.

Interpretation

2.—(1) In these regulations "the principal regulations" means the National Health Service (Superannuation) Regulations 1961(**c**), as amended(**d**), and other words and expressions used have the same meaning as in the principal regulations.

(**a**) 1972 c. 11.

(**b**) S.I. 1966/1523; 1967/949; 1972/1537; 1973/242/731/1649; 1974/223/1047, 1975/1292.

(**c**) S.I. 1961/1441.

(**d**) The relevant amending regulations are S.I. 1966/1523; 1967/949; 1972/1537; 1973/242, 731,1649; 1974/223,1047; 1975/1292.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**a**) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

PART II

AMENDMENTS TO FULFIL CONTRACTING-OUT REQUIREMENTS OF THE SOCIAL SECURITY PENSIONS ACT 1975

3. In regulation 2 of the principal regulations (interpretation)—

(*a*) in paragraph (2)—

(i) after the definition of "the Act of 1973" there shall be inserted the following definition—

" "the Pensions Act" means the Social Security Pensions Act 1975(**b**);";

(ii) after the definition of "average remuneration" there shall be inserted the following definition—

" "contracted-out employment" shall be construed in accordance with section 30 of the Pensions Act;";

(iii) after the definition of "contributing service" there shall be inserted the following definition—

" "contributions equivalent premium" shall be construed in accordance with section 42 of the Pensions Act;";

(iv) after the definition of "Family Practitioner Committee" there shall be inserted the following definitions—

" "guaranteed minimum" shall be construed in accordance with section 35 of the Pensions Act;";

" "guaranteed minimum pension" has the meaning assigned to it in section 26 of the Pensions Act;"; and

(v) after the definition of "pension" there shall be inserted the following definition—

" "pensionable age" has the meaning assigned to it in section 27 of the Social Security Act 1975(**c**);";

(*b*) in paragraph (8)(*c*) for "and 43A" there shall be substituted "43A and 43B".

4. In regulation 4 of the principal regulations (application of the regulations)—

(*a*) in paragraph (1) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(*b*) any other whole-time officer who has given notice in accordance with regulation 17(3)(*a*);";

(*b*) for paragraph (5) there shall be substituted the following paragraph—

"(5) On attaining the age of 70 years an officer shall, for the purposes of these regulations, be regarded as having ceased to be an officer.".

(**a**) 1889 c. 63. (**b**) 1975 c. 60. (**c**) 1975 c. 14.

5. In regulation 8(1) of the principal regulations (officer's pension and retiring allowance)—

(*a*) in sub-paragraph (*a*)(ii) the words "and completed 5 years' service" shall be omitted;

(*b*) in sub-paragraph (*a*)(iv) for the words "regulation 35(4) applies, and in either" there shall be substituted the words "regulation 35(4) or regulation 35(5)(*b*) applies, and in any such".

6. For regulation 14 of the principal regulations (widow's pension) there shall be substituted the following regulation—

"*Widow's pension*

14.—(1) The widow of a person who dies and who—

(*a*) was entitled at the time of his death to a pension under these regulations or the previous regulations; or

(*b*) was at the time of his death employed in employment in which he was an officer and had completed not less than 5 years' service or had attained the age of 60 years,

shall be entitled to receive from the Secretary of State an annual widow's pension:

Provided that a widow shall not be entitled to receive a widow's pension in excess of the amount specified in proviso (v) to paragraph (3) of this regulation—

(i) if the marriage took place after her husband ceased to be an officer; or

(ii) if at the time at which her husband became entitled to a pension under these regulations or the previous regulations or at the date of his death, the husband and wife were judicially separated; or

(iii) if her husband had become entitled to a pension before 15th December 1966 and at the time of his death she was herself entitled to a pension under these regulations or the previous regulations otherwise than as a practitioner, or would have become so entitled immediately on ceasing to be an officer; or

(iv) if the marriage took place before 18th January 1975 and on her husband's death a widow's pension would have been precluded by proviso (ii) to paragraph (1) of this regulation as originally made and on her husband's retirement, or on his death before retirement, she elects to forego that widow's pension in order that there may become payable an unreduced retiring allowance or death gratuity.

(2) The widow of such a person as is mentioned in regulation 13(1)(*b*) shall be entitled to the like benefit (if any) by way of widow's pension as would have been granted under these regulations (except paragraph (4) of this regulation) or the previous regulations if her husband had died immediately before ceasing to be an officer.

(3) Subject to the provisions of paragraph (4) of this regulation, the amount of the widow's pension shall be as follows—

(*a*) in the case of the widow of an officer, one-half of the pension which would have been payable to the officer had he become entitled, on the date of his death, to a pension under regulation 8(1)(*a*)(ii) or, if he had completed not less than 5 years' service, to a pension under regulation 8(1)(*a*)(i);

(*b*) in the case of the widow of a person who was entitled to a pension, one-half of such pension:

Provided that—

(i) if any such pension as is mentioned in sub-paragraph (*a*) of this paragraph would have been reduced under regulation 52, no account shall be taken of the reduction, and any such pension as is mentioned in sub-paragraph (*b*) of this paragraph shall be deemed to be the pension that would have been payable but for any reduction under that regulation, or under any corresponding provision of the previous regulations;

(ii) if such officer as is mentioned in sub-paragraph (*a*) of this paragraph died before 25th March 1972 then, unless his widow had elected to receive a widow's pension at a higher rate than one-third, the reference in sub-paragraph (*a*) of this paragraph to one-half shall be a reference to one-third;

(iii) if such person as is mentioned in sub-paragraph (*b*) of this paragraph became entitled to the pension mentioned therein before 25th March 1972 then, unless on retirement he elected not to receive a retiring allowance, the reference in sub-paragraph (*b*) of this paragraph shall be a reference to one-third;

(iv) where an officer has received payment of a retiring allowance, a widow's pension shall not be payable in respect of any part of his service before 25th March 1972 in respect of which his retiring allowance was calculated at the rate of three times the annual amount of his pension unless either—

(*a*) the Secretary of State has accepted repayment to such extent and in such manner as he considers appropriate in order to recover the difference between the retiring allowance so paid and that which would have been paid on the basis that a widow's pension might become payable, or

(*b*) a corresponding adjustment falls to be made under the proviso to regulation 40(2);

(v) the amount of a widow's pension shall, notwithstanding regulation 28, be not less than the following amounts in respect of her husband's contributing service on or after 6th April 1978, namely—

(*a*) in the case of service otherwise than as a practitioner, an amount equal to 1/160th of his average remuneration in respect of each year of service, and

(*b*) in the case of service as a practitioner, an amount equal to 0·7 per cent of his total uprated remuneration in respect of such service,

so, however, that any contributing service added under regulation 33(3) or 71(2) shall be disregarded;

(vi) during the period that a pension of limited duration is payable under regulation 14B a widow's pension shall not be payable at any of the rates specified in this paragraph.

(4) For the first three months following the death of a person mentioned in paragraph (1)(*a*) or (*b*) of this regulation, and subject to the provisos thereto, a widow's pension shall be payable if, at the date of his death—

(*a*) he was a person mentioned in paragraph (1)(*a*) of this regulation and he was not an officer at the date of his death, at the rate at

which his pension was payable at the date of his death without having regard to any reduction or suspension by reason of the operation of regulation 39;

(*b*) he was a person mentioned in paragraph (1)(*a*) of this regulation and he was an officer at the date of his death, at the aggregate of his rate of remuneration at the date of his death and the rate at which his pension was being paid at that date having regard to any reduction or suspension by reason of the operation of regulation 39;

(*c*) he was a person mentioned in paragraph (1)(*b*) of this regulation, not being a person mentioned in paragraph (1)(*a*) of this regulation, at the rate of his remuneration at the date of his death:

Provided that—

(i) a widow's pension shall not be payable at any of the rates mentioned in paragraph (3) of this regulation or in the case of a person to whom regulation 43 applied, a relevant provision, whilst a widow's pension is payable at any of the rates mentioned in this paragraph;

(ii) no account shall be taken of any reduction or suspension of the remuneration of an officer who was on leave of absence from duty at the time of his death;

(iii) for the purposes of this paragraph the remuneration of a practitioner shall be taken as the rate of his remuneration during the quarter immediately before his death or, if his remuneration during that quarter was reduced or suspended because of his illness or injury or that of any partner of his, at the rate set out in regulation 65(3);

(iv) this paragraph shall not apply to any case in which a greater amount would be payable under these regulations apart from this paragraph;

(v) a widow's pension shall not be payable at any of the rates mentioned in this paragraph if the widow has become entitled to receive a pension of limited duration under regulation 14B.

(5) During the period that a widow's pension is payable at any of the rates specified in paragraph (4) a child's allowance shall not be payable under regulation 14A in respect of any child dependent upon the widow.

(6) A widow's pension shall not be payable to a widow—

(*a*) if she re-marries, in respect of any period after her re-marriage, so, however, that in the event of the termination of her re-marriage, the Secretary of State may restore her widow's pension in whole or in part if he is satisfied that she would otherwise suffer hardship and if he does so he may take account of any deficiency payment already made under paragraph (7) of this regulation; or

(*b*) in respect of any period during which she and a man to whom she is not married are living together as man and wife.

(7) If on the death of any person a widow's pension becomes payable and the death gratuity is thereby less than it would have been had no widow's pension been payable, then if on the death or re-marriage of the widow the amount paid by way of widow's pension is less than the difference between the amount of the death gratuity and the amount that the death

gratuity would have been had no widow's pension become payable, there shall be paid to or among such persons as the Secretary of State may determine an amount equal to the difference.".

7. In regulation 14B(2) of the principal regulations (pensions of limited duration) for proviso (i) there shall be substituted the following proviso—

"(i) a limited pension shall not be payable to a widow if at the date of her husband's death they were judicially separated or if she would not be entitled to a widow's pension by virtue of the provisions of regulation 14(6);".

8. In regulation 14D of the principal regulations (widower's pension) for "regulation 14(4)(*b*)" there shall be substituted the words "regulation 14(6)(*b*)".

9. For regulation 15 of the principal regulations (power to compound small benefits) there shall be substituted the following regulation—

"*Power to compound small benefits*

15.—(1) Subject to paragraph (2) below, where the annual sum payable to any person is less than £39, the Secretary of State may discharge his liability in respect of that annual sum and in respect of any death gratuity which might otherwise become payable on that person's death by the payment of a lump sum representing the capital value of that annual sum and that death gratuity.

(2) Paragraph (1) above shall not apply in relation to a pension unless the person entitled to that pension became entitled to receive payment thereof on or after attaining pensionable age.".

10. After regulation 15 of the principal regulations there shall be inserted the following regulation—

"*Guaranteed minimum pension under the Pensions Act*

15A.—(1) Subject to paragraph (3) below but notwithstanding any other provision of these regulations, where an officer has a guaranteed minimum in relation to a pension provided by virtue of these regulations—

(*a*) that pension shall be at a weekly rate of not less than the guaranteed minimum pension from pensionable age, but where he continues in employment as an officer after attaining that age his entitlement to receive payment of such pension shall be postponed until he ceases to be an officer, except that he shall become entitled to receive payment of that pension at the guaranteed minimum pension rate 5 years after pensionable age where he has continued until then to be an officer without having become entitled to receive payment of any benefit under these regulations, and

(*b*) if he dies and leaves a widow, she shall be entitled to receive payment of a widow's pension the weekly rate of which shall not be less than one-half of that guaranteed minimum pension for any period such as is mentioned in section 36(6) of the Pensions Act.

(2) Where payment of an officer's guaranteed minimum pension is postponed because he continues in employment after attaining pensionable age, or after that age is reduced or suspended under the provisions of regulation 39, then his guaranteed minimum in relation to a pension provided by virtue of these regulations shall be increased to the extent specified in section 35(6) of the Pensions Act.

(3) In the following circumstances a pension provided by virtue of these regulations may be less than the guaranteed minimum pension—

(*a*) where regulation 39 operates to reduce a pension;

(*b*) where the Secretary of State has made a direction under regulation 55 in respect of an offence mentioned in paragraph (*b*) or (*c*) of that regulation;

(*c*) where the Secretary of State has discharged his liability by a payment under regulation 15 or regulation 78.".

11. In regulation 17 of the principal regulations (reckoning as service of previous periods of employment)—

(*a*) in paragraph (4) for the words from "but for the purpose" to the end of the paragraph there shall be substituted the words "and the contributing service reckonable in respect of any part of the former employment shall bear the same relationship to the service reckonable under the previous scheme in respect of that part as the total contributing service reckonable under this paragraph bears to the total service reckonable under the previous scheme, but for the purposes of these regulations contributing service reckonable under this paragraph shall not be regarded as service before 25th March 1972.";

(*b*) in paragraph (5) for the full stop at the end of sub-paragraph (*b*) there shall be substituted a semi-colon and after sub-paragraph (*b*) there shall be inserted the following sub-paragraph—

"(*c*) decline to accept a transfer payment under paragraph (3) of this regulation if the amount of a pension calculated by reference to the contributing service which the person would otherwise have been entitled to reckon under paragraph (4) of this regulation and his annual rate of remuneration on the date he became an officer is less than the amount of guaranteed minimum pension for which the Secretary of State would have been liable as a result of his accepting that transfer payment.".

12. In regulation 23A(2) of the principal regulations (purchase of added years) after the words "such service" there shall be inserted the words ", not being service which was in contracted-out employment,".

13. In regulation 23B(1) of the principal regulations (additional payments to reckon certain periods of service as contributing service at actual length) after the words "a period of service" there shall be inserted the words "before 6th April 1978".

14. In regulation 35 of the principal regulations (return of contributions)—

(*a*) in paragraph (1) there shall be added at the beginning the words "Subject to the following provisions of this regulation,";

(*b*) in paragraph (4) for the words "where an officer" there shall be substituted the words, "where a person who on ceasing to be an officer has attained the age of 26 years and has completed 5 years' service, excluding any added years"; and

(*c*) after paragraph (4) there shall be added the following paragraphs—

"(5) A person shall not be entitled to a return of contributions in respect of any period of service—

(*a*) after 5th April 1975 (excluding any added years) if on ceasing to be an officer he has attained the age of 26 years and completed 5 years' service after that date;

(*b*) in contracted-out employment for which no contributions equivalent premium is payable, other than such a period for which no such premium is payable solely because the officer was a person described in paragraph (6) of this regulation, or in respect of any subsequent period of service; or

(*c*) for which a transfer payment has been repaid in the circumstances mentioned in regulation 8(1)(*a*)(iii).

(6) (*a*) Where a return of contributions is payable in respect of a period of service of a woman officer who would attain the age of 60 years during the tax year in which she ceases to be an officer, any payment made to her under this regulation shall be reduced by the amount by which it would have been reduced had a contributions equivalent premium been paid.

(*b*) For the purposes of this paragraph "tax year" means the 12 months beginning with 6th April in any year.".

15. In regulation 41 of the principal regulations (separate benefits)—

(*a*) in paragraph (1) the words "and for the purposes of regulation 28" shall be deleted;

(*b*) in paragraph (2) for the word "In" at the beginning of the paragraph there shall be substituted the words "For the purposes of regulation 7(4) and regulation 28(1), in the case of a person mentioned in paragraph (1) of this regulation of the service in respect of which the said pension as granted shall be treated as though it were service under these regulations, and in"; and

(*c*) in proviso (*a*) to paragraph (2) for the words from "number of years" to the end of the proviso there shall be substituted the words "service in respect of which the pension was granted shall be multiplied by 6/5ths;".

16. In regulation 43 of the principal regulations (benefits of officers who have exercised options)—

(*a*) in paragraph (2) for the words "becomes an officer" there shall be substituted the words "has become an officer before 6th April 1978";

(*b*) in paragraph (8), in proviso (iii) to sub-paragraph (*e*) for the words "regulation 14(4)" there shall be substituted the words "regulation 14(6)".

17. In regulation 43A of the principal regulations (additional pension for widows of certain optants)—

(*a*) In proviso (ii) to paragraph (1) for "regulation 14(4)" there shall be substituted "regulation 14(6)";

(*b*) for proviso (iii) to paragraph (1) there shall be substituted the following proviso—

"(iii) in the circumstances mentioned in either proviso (i) or (ii) to regulation 14(1) a widow's pension shall not become payable under this regulation except in respect of service on or after 6th April 1978;";

(*c*) in paragraph (2) after the words "any part-year" there shall be inserted the words ", so, however, that no contribution shall be payable under this paragraph for any period during which contributions are payable under regulation 43B(3).".

18. After regulation 43A of the principal regulations there shall be inserted the following regulation—

"*Minimum benefits for certain optants*

43B.—(1) This regulation shall apply in respect of every officer in contracted-out employment to whom the provisions of regulation 43 or regulation 45 apply.

(2) An officer to whom this regulation applies shall be entitled at pensionable age to the pension specified in the relevant provisions or in the relevant scheme or arrangements applying in his case and such pension shall be at the rate of not less than 1/80th of his average remuneration (determined in accordance with regulation 34) in respect of each year of service in contracted-out employment, but he shall not become entitled to receive payment of such pension until he ceases to be an officer.

(3) Subject to paragraph (4) below a male officer to whom this regulation applies shall, as from 6th April 1978, pay an additional contribution of $1\frac{1}{2}$ per cent of his remuneration for the time being for so long as he remains an officer to whom the provisions of the said regulation 43 or regulation 45 apply and has not attained pensionable age.

(4) Paragraph (3) above shall not apply to an officer in respect of whom, apart from this regulation and regulation 43A, a widow's pension might become payable at a rate of not less than 1/160th of his average remuneration (as defined in regulation 34) in respect of each year of service on or after 6th April 1978.

(5) Where an officer to whom paragraph (3) above applies dies either—

(*a*) after becoming entitled to a pension under these regulations; or

(*b*) after having completed 5 years' service; or

(*c*) while in employment as an officer having attained pensionable age or such earlier age on which, under the relevant provisions applying in his case, he could have qualified for a pension on retirement,

his widow shall be entitled to a pension and regulation 14(6) shall apply to such pension.

(6) The aggregate of widow's pension payable under these regulations in respect of any period during which contributions were paid under paragraph (3) above shall be at a rate of not less than 1/160th of the officer's average remuneration (determined in accordance with regulation 34) in respect of each year of employment during which such contributions were paid, periods of part-time employment being reduced to their equivalent whole-time length.

(7) Any relevant provision relating to the payment of contributions to secure a widow's pension shall not apply in respect of any period during which contributions are paid under paragraph (3) above.

(8) Where the provisions of regulations 39, 52, 54 or 55 apply to the pension payable under these regulations, they shall similarly apply to a pension specified in paragraph (2) above, and that paragraph shall not apply to any pension in respect of which the Secretary of State has discharged his liability by a payment under regulation 78 or a relevant provision corresponding to regulation 15.

(9) No relevant provision for the allocation of part of a pension shall operate so as to enable the pension to be reduced below the amount specified in paragraph 1(*bb*) of Schedule 1.".

19. In regulation 45 of the principal regulations (persons subject to non-statutory superannuation schemes and arrangements)—

(*a*) in paragraph (4) for the full stop at the end of the paragraph there shall be substituted a colon and there shall be added the following proviso—

"Provided that this paragraph shall not apply to a person who becomes an officer on or after 6th April 1978.";

(*b*) in the proviso to paragraph (5) after the words "employing authority" there shall be inserted the words "and shall not apply to a person who becomes an officer on or after 6th April 1978.";

(*c*) in paragraph (6) for the words "been participating" to and including the words "purposes of this paragraph" there shall be substituted the words "and in consequence of a request made by him to the Secretary of State under this regulation or the corresponding provision of the previous regulations, been participating in the scheme or other arrangements for the provision of superannuation benefits previously applicable to him";

(*d*) in paragraph (9) after the words "Secretary of State" where they first occur there shall be inserted the words "shall do so subject to the modification provided by regulation 43B and".

20. After regulation 47 of the principal regulations there shall be inserted the following regulation—

"*Officers wishing to relinquish options*

47A.—(1)(*a*) Subject to the provisions of sub-paragraph (*b*) below, an officer to whom the provisions of regulation 43, regulation 45 or regulation 75 (as the case may be) apply may elect in writing to the Secretary of State that the provisions of that regulation shall cease to apply to him and upon the date on which his election is received by the Secretary of State, he shall be regarded as having ceased to be an officer to whom such regulation applies.

(*b*) In the case of an officer to whom the provisions of regulation 43 apply the election shall have effect as from 6th April 1978 where it is received within 6 months of that date or within such longer period as the Secretary of State may in any particular case allow.

(2) Any period during which regulation 43, regulation 45 or regulation 75 (as the case may be) applied to an officer before that regulation ceased to apply to him in consequence of his electing in accordance with paragraph (1) above shall be reckonable as service for the purpose of determining whether any benefit is payable to or in respect of an officer under these regulations, but for no other purpose.".

21. After regulation 52 of the principal regulations there shall be inserted the following regulation—

"*Modification of benefits to take account of benefits under the Pensions Act*

52A. Any pension payable under these regulations to a person in respect of a period for which a contributions equivalent premium has been paid and has not been recovered shall be reduced, as from pensionable age,

by the amount of the guaranteed minimum pension to which he would have been entitled if that contributions equivalent premium had not been paid, and any widow's or widower's pension shall be reduced, as from the date it comes into payment, by one-half of that amount.".

22. In regulation 66 of the principal regulations (scale of pension for a practitioner)—

(*a*) in paragraph (1) for the words "The 'pension" there shall be substituted the words "Subject to paragraph (3) of this regulation, the pension";

(*b*) after paragraph (2) there shall be inserted the following paragraph—

"(3) Where any of the practitioner's service was service in contracted-out employment for which no contributions equivalent premium has been paid, or if one has been paid it has been recovered, the pension shall be not less than a pension calculated under paragraph 1(*b*) of this regulation in respect of such contracted-out employment.".

23. In regulation 78(1) of the principal regulations (rights on transfer to other employment)—

(*a*) the word "and" at the end of sub-paragraph (*c*) shall be omitted;

(*b*) for the comma at the end of sub-paragraph (*d*) there shall be substituted "; and";

(*c*) after sub-paragraph (*d*) there shall be added the following sub-paragraph—

"(*e*) in a case where the person, not being a woman who has elected to pay reduced rate National Insurance contributions throughout her reckonable service in contracted-out employment, has reckonable service in contracted-out employment in respect of which no contributions equivalent premium is payable, or if one has been paid it has been recovered, his new employment is contracted-out employment or employment subject to another health service scheme,".

24. In paragraph 1 of Schedule 1 to the principal regulations (allocation of part of pension)—

(*a*) after sub-paragraph (*b*) there shall be inserted the following sub-paragraph—

"(*bb*) any such part as would make the amount of his reduced pension, apart from the provisions of regulation 52, less than the sum of—

(i) the amount of his guaranteed minimum pension accrued up to the date on which he gives notice of his desire to surrender part of his pension, and

(ii) the amount specified by regulation 14 of the National Insurance (National Health Service Superannuation Scheme — Modification and Non-participation) Regulations 1976(**a**);".

25. In Schedule 3 to the principal regulations (transfer payments)—

(*a*) in paragraph 1—

(i) in sub-paragraph (*a*) after the words "in respect of accrued modification," there shall be inserted the words "accrued guaranteed

(**a**) S.I. 1976/1450.

minimum pension and any contributions equivalent premium which the Secretary of State has paid and not recovered in respect of a period of service included in the calculation of the accrued pension,";

(ii) for sub-paragraph (*b*) there shall be substituted the following sub-paragraph—

"(*b*) compound interest at such rates and in respect of such periods between the day on which the person ceases to be an officer and the day on which the transfer payment is made as the Secretary of State may from time to time specify.";

(*b*) in paragraph 2 for sub-paragraph (1) there shall be substituted the following sub-paragraph—

"(1) The sums in respect of accrued pension, accrued retiring allowance, accrued modification and accrued guaranteed minimum pension shall be calculated by multiplying the accrued pension by the pension factor, the accrued retiring allowance by the retiring allowance factor, the accrued modification by the modification factor and the accrued guaranteed minimum pension by the guaranteed minimum pension factor, such factors being the factors in the appropriate table in this schedule in relation to the person's age at the date on which he ceased to be an officer.";

(*c*) in paragraph 3 for sub-paragraph (*d*) there shall be substituted the following sub-paragraph—

"(*d*) "accrued guaranteed minimum pension" means the amount of the guaranteed minimum pension in respect of the period of contracted-out employment to which an officer was entitled under regulation 15A on the date he ceased to be an officer.";

(*d*) in paragraph 6—

(i) for the full stop at the end of sub-paragraph (*e*) there shall be substituted a semi-colon;

(ii) after sub-paragraph (*e*) there shall be inserted the following sub-paragraph—

"(*f*) where the amount of a transfer payment has been reduced by a sum in respect of accrued guaranteed minimum pension, the amount of the transfer payment received shall be deemed to have been the amount that would have been received had it not been so reduced and in calculating under paragraph 5 of Schedule 3 the transfer payment under regulation 78 equivalent to the amount of the transfer payment received, no reduction shall be made in respect of accrued guaranteed minimum pension.";

(*e*) for the tables following paragraph 6 there shall be substituted the tables set out in Schedule 1 to these regulations.

26. In Schedule 6 to the principal regulations (child's allowance) for each reference to "14(3B)" in paragraph 1 and the proviso thereto there shall be substituted a reference to "14(4)".

PART III

MISCELLANEOUS AMENDMENTS

27. In regulation 2(1) of the principal regulations (interpretation), in the definition of "practitioner" for the words "the Family Practitioner Committee" there shall be substituted the words "an employing authority wholly".

28. In regulation 8 of the principal regulations (officer's pension and retiring allowance)—

(*a*) in paragraph (1)—

(i) for sub-paragraph (*a*)(iii) there shall be substituted the following—

"(iii) there has been repaid to the Secretary of State a transfer payment which was made under regulation 78(1) to the superannuation scheme of the Commission of the European Communities in respect of that person; or";

(ii) in proviso (i) for "(*a*)(iv) or (vi)" there shall be substituted "(*a*)(iii), (iv) or (vi)";

(*b*) in paragraph (2)

(i) for "(*a*)(iv) or (vi)" there shall be substituted "(*a*)(iii), (iv) or (vi)";

(ii) in sub-paragraph (*a*) for the words "in the case of" to and including the words "at which he" there shall be substituted the words "in a case where the Secretary of State has certified that the officer's retirement is by reason of redundancy, the earliest age at which the officer";

(*c*) in paragraph 6(*a*) "(1)(*a*)(iii) or" shall be omitted.

29. In regulation 9(4) of the principal regulations (scales of pension and retiring allowance) for "regulation 8(1)(*a*)(iv)" there shall be substituted "regulation 8(1)(*a*)(iii), (iv) or (vi) or regulation 8(6)(*b*)(i)".

30. In regulation 13 of the principal regulations (death gratuity) for paragraph (5) there shall be substituted the following paragraph—

"(5) In calculating a person's average remuneration for the purposes of this regulation, the remuneration in respect of any employment which reckons as service as a practitioner shall be deemed to have been at the rate of the annual average of the total uprated remuneration calculated in accordance with regulation 66(2).".

31. In regulation 17 of the principal regulations (reckoning as service of previous periods of employment) after paragraph (4) there shall be inserted the following paragraph—

"(4A) Where two or more persons at the same time enter employment as officers of one or more employing authorities after leaving employments in which they were not officers and in which they were subject to the same superannuation scheme, not being a health service scheme, the Secretary of State may, on the advice of the Government Actuary, accept a single transfer payment in respect of those persons in substitution for the several transfer payments in respect of those persons which would otherwise be payable in accordance with paragraph (3) above, and in any such case the provisions of these regulations shall apply as if that payment comprised a transfer payment in respect of each of the persons in respect of whom it is made of such amount as the Secretary of State may determine.".

32. In regulation 22 of the principal regulations (reckoning of previous employment as qualifying service in certain cases) after paragraph (7) there shall be inserted the following paragraph—

"(8) Where an officer who is employed as a whole-time hospital chaplain becomes liable to pay contributions under regulation 7 there shall be reckonable as service for the purpose of determining whether any

benefit is payable to or in respect of him, but not for the purpose of calculating the amount of any such benefit, any earlier period during which he was so employed.".

33. In regulation 23A of the principal regulations (purchase of added years)—

(*a*) in sub-paragraph (*b*) of paragraph (4) for the words "3 months of so ceasing to be an officer" there shall be substituted the words "6 months of so ceasing to be an officer,";

(*b*) for sub-paragraph (*c*) of paragraph (4) there shall be substituted the following sub-paragraphs—

"(*c*) if sub-paragraph (*b*) of this paragraph has applied to him and he again becomes an officer within 6 months in circumstances in which his previous service is reckonable or was taken into account for the purpose of calculating benefits under regulation 8(1)(*a*)(iv), he may within 3 months of so becoming an officer make the payment that he would have made in accordance with the provisions of Schedule 8 if he had not ceased to be an officer and on making such payment his election under this regulation shall continue to have effect;

(*d*) the Secretary of State may in any particular case extend any time limit mentioned in this regulation.".

34. In regulation 23B of the principal regulations (additional payments to reckon certain periods of service as contributing service at actual length)—

(*a*) in sub-paragraph (*b*) of paragraph (3) for the words "3 months of so ceasing to be an officer" there shall be substituted the words "6 months of so ceasing to be an officer";

(*b*) for sub-paragraph (*c*) of paragraph (3) there shall be substituted the following sub-paragraphs—

"(*c*) if sub-paragraph (*b*) of this paragraph has applied to him and he again becomes an officer within 6 months in circumstances in which his previous service is reckonable or was taken into account for the purpose of calculating benefits under regulation 8(1)(*a*)(iv), he may within 3 months of so becoming an officer make the payment that he would have made in accordance with the provisions of Schedule 8 if he had not ceased to be an officer and on making such payment his election under this regulation shall continue to have effect;

(*d*) the Secretary of State may in any particular case extend any time limit mentioned in this regulation.".

35. In regulation 23C of the principal regulations (purchase of unreduced retiring allowance)—

(*a*) in sub-paragraph (*b*) of paragraph (2) for the words "3 months of so ceasing to be an officer" there shall be substituted the words "6 months of so ceasing to be an officer,";

(*b*) for sub-paragraph (*c*) of paragraph (2) there shall be substituted the following sub-paragraphs—

"(*c*) if sub-paragraph (*b*) of this paragraph has applied to him and he again becomes an officer within 6 months in circumstances in which previous service is reckonable or was taken into account

for the purpose of calculating benefits under regulation 8(1)(*a*)(iv), he may within 3 months of so becoming an officer make those payments that he would have made in accordance with the provisions of Schedule 9 if he had not ceased to be an officer and on making such payment his election under this regulation shall continue to have effect;

(*d*) the Secretary of State may in any particular case extend any time limit mentioned in this regulation.".

36. In regulation 43A of the principal regulations (additional pension for widows of certain optants)—

(*a*) in paragraph (4)(*b*) for the words "3 months of so ceasing to be an officer" there shall be substituted the words "6 months of so ceasing to be an officer, or such longer period as the Secretary of State may in any particular case allow,";

(*b*) in paragraph (4)(*c*) the words "to whom regulation 43 applies in circumstances in which his previous service is still reckonable" shall be omitted.

37. In regulation 45(9) of the principal regulations (persons subject to non-statutory superannuation schemes and arrangements) after sub-paragraph (*d*) there shall be inserted the following sub-paragraph—

"(*e*) where any remuneration which has been awarded to an officer to whom this regulation applies or to which he was entitled under his conditions of employment has been withheld or deferred in the national interest the Secretary of State may pay, in addition to the contributions mentioned in this regulation, an amount equal to the contributions which would have been payable both by the employer and the officer on the remuneration so withheld or deferred had it been paid.".

38. In regulation 50 of the principal regulations (female nurses etc.) after the words "to females who" there shall be inserted the words "for the whole of the last 5 years of service".

39. In regulation 64(2)(i) of the principal regulations (meaning of "remuneration") after the words "Family Practitioner Committee" there shall be inserted the words "or an Area Health Authority".

40. In regulation 68 of the principal regulations (prior service to be treated as practitioner service) the words from ", unless regulation 69" to and including the words "otherwise than as a practitioner" shall be omitted.

41. In regulation 69(1) of the principal regulations (employment as an officer and as a practitioner) after the words "such service otherwise than as a practitioner shall" there shall be inserted the words "except where regulation 68 applies,".

42. In regulaton 75 of the principal regulations (continuation of contracts or policies of insurance in certain cases) after paragraph (4) there shall be inserted the following paragraph—

"(5) Where any remuneration which has been awarded to a practitioner or to which he was entitled under his terms of service has been withheld or deferred in the national interest the Secretary of State shall, if he considers it appropriate, pay in addition to the contributions mentioned in paragraph (1) or (2) of this regulation an amount equal to 14 per cent, of the remuneration so withheld or deferred.".

43. In regulation 78 of the principal regulations (rights on transfer to other employment)—

(*a*) After paragraph (1) there shall be inserted the following paragraph—

"(1A) Where two or more persons at the same time take up new employment in which they participate in the same scheme after leaving old employment the Secretary of State may, on the advice of the Government Actuary, pay to the body administering the scheme a single transfer payment in respect of those persons in substitution for the several transfer payments which would otherwise be payable in accordance with this regulation.";

(*b*) in paragraph (1)(*b*) after the words "6 months after taking up his new employment" there shall be inserted the words "or within such longer period as the Secretary of State may in any particular case allow";

(*c*) in paragraph (3) for the words "any provision of these regulations" there shall be substituted the words "the provisions of these regulations other than the provisions of regulation 8(1)(*a*)(iii)".

44. In Schedule 3 to the principal regulations—

(*a*) in paragraph 3(*a*) the words "attained minimum pensionable age and had" shall be omitted;

(*b*) in paragraph 3(*b*) the words ", by virtue of his having attained minimum pensionable age," shall be omitted.

45. In regulation 25(4) of the National Health Service (Superannuation) (Amendment) Regulations 1966(**a**), as amended(**b**), after "regulation 8(1)(*a*)(iv)" there shall be inserted "or 8(6)(*b*)".

PART IV

Revocation

46.—(1) The following regulations of the principal regulations are hereby revoked—

(*a*) regulation 4(4), proviso (*b*) to regulation 35(1), proviso (*c*) to regulation 43(1), and regulation 43(8)(*g*);

(*b*) regulation 7(4)(*d*) and the proviso thereto; and

(*c*) regulation 8(4).

(2) Regulation 18 of the National Health Service (Superannuation) (Amendment) (No. 2) Regulations 1974(**c**) is hereby revoked.

Regulations having retrospective effect

47. Each of the regulations set out in column (1) of Schedule 2 to these regulations shall have effect as from the date set out in column (2) of that Schedule, subject to the qualification, if any, set out in column (3).

David Ennals,

14th September 1978. Secretary of State for Social Services.

Consent of the Minister for the Civil Service given under his official seal on 1978.

T.A.A. Hart

14th September 1978. Authorised by the Minister for the Civil Service.

(**a**) S.I. 1966/1523. (**b**) S.I. 1973/1649. (**c**) S.I. 1974/1047.

SCHEDULE 1 Regulation 25(e)

PUBLIC SERVICE TRANSFER VALUES

TABLE 1—MEN

(A) Age	(B) Pension Factor	(C) Retiring Allowance Factor	(D) Modification Factor	(E) Guaranteed Minimum Pension Factor
Under 20	5·00	·60	·25	1·47
20	5·05	·60	·25	1·50
21	5·10	·61	·25	1·53
22	5·15	·61	·30	1·56
23	5·20	·61	·30	1·59
24	5·25	·62	·30	1·62
25	5·30	·62	·35	1·65
26	5·35	·63	·40	1·68
27	5·40	·63	·40	1·71
28	5·45	·63	·45	1·74
29	5·50	·64	·50	1·78
30	5·55	·64	·50	1·81
31	5·60	·65	·55	1·85
32	5·65	·66	·60	1·88
33	5·70	·66	·65	1·92
34	5·75	·67	·70	1·95
35	5·80	·67	·80	1·99
36	5·85	·68	·90	2·02
37	5·90	·68	1·00	2·06
38	5·95	·68	1·10	2·10
39	6·00	·69	1·20	2·14
40	6·05	·69	1·30	2·18
41	6·10	·70	1·40	2·22
42	6·15	·70	1·50	2·26
43	6·20	·71	1·60	2·30
44	6·25	·72	1·70	2·34
45	6·30	·72	1·80	2·39
46	6·40	·73	1·90	2·44
47	6·50	·74	2·00	2·48
48	6·60	·74	2·20	2·53
49	6·70	·75	2·40	2·58
50	6·80	·75	2·60	2·62
51	6·90	·76	2·90	2·67
52	7·10	·76	3·20	2·72
53	7·30	·77	3·50	2·78
54	7·50	·78	3·80	2·84
55	7·70	·79	4·20	2·90
56	8·00	·80	4·60	2·97
57	8·30	·81	5·00	3·04
58	8·60	·82	5·40	3·12
59	9·00	·84	5·80	3·20
60	9·50	·86	6·30	3·28
61	9·50	·88	6·80	3·36
62	9·50	·91	7·40	3·44
63	9·50	·94	8·10	3·53
64	9·50	·98	9·00	3·64
65	9·50	1·00	9·50	3·80
66	9·15	1·00	9·15	4·10
67	8·80	1·00	8·80	4·50
68	8·50	1·00	8·50	4·90
69	8·15	1·00	8·15	5·30
70	7·80	1·00	7·80	5·70

Regulation 25(e)

SCHEDULE 1

PUBLIC SERVICE TRANSFER VALUES

TABLE 2—WOMEN

(A) Age	(B) Pension Factor	(C) Retiring Allowance Factor	(D) Modification Factor	(E) Guaranteed Minimum Pension Factor
Under 20	7·00	·60	·50	2·20
20	7·05	·60	·50	2·24
21	7·10	·61	·55	2·28
22	7·15	·61	·60	2·32
23	7·20	·61	·65	2·36
24	7·25	·62	·70	2·40
25	7·35	·62	·75	2·45
26	7·40	·63	·80	2·50
27	7·45	·63	·85	2·55
28	7·50	·63	·90	2·60
29	7·55	·64	·95	2·66
30	7·65	·64	1·05	2·71
31	7·70	·65	1·15	2·77
32	7·80	·66	1·25	2·82
33	7·90	·66	1·35	2·88
34	7·95	·67	1·45	2·93
35	8·05	·67	1·55	2·99
36	8·15	·68	1·65	3·05
37	8·25	·68	1·75	3·11
38	8·35	·68	1·85	3·17
39	8·45	·69	1·95	3·24
40	8·55	·69	2·10	3·31
41	8·65	·70	2·25	3·38
42	8·75	·70	2·45	3·45
43	8·85	·71	2·65	3·52
44	8·95	·72	2·90	3·59
45	9·05	·73	3·15	3·66
46	9·15	·74	3·40	3·74
47	9·25	·75	3·70	3·82
48	9·35	·76	4·00	3·90
49	9·45	·77	4·35	3·98
50	9·55	·78	4·75	4·06
51	9·65	·79	5·15	4·15
52	9·80	·80	5·60	4·24
53	9·95	·81	6·10	4·33
54	10·10	·82	6·65	4·43
55	10·30	·83	7·25	4·53
56	10·50	·84	7·95	4·63
57	10·75	·85	8·75	4·74
58	11·05	·87	9·65	4·85
59	11·40	·89	10·65	4·97
60	11·75	·91	11·75	5·10
61	11·75	·93	11·75	5·30
62	11·75	·95	11·75	5·60
63	11·75	·97	11·75	6·00
64	11·75	·99	11·75	6·40
65	11·75	1·00	11·75	6·80
66	11·40	1·00	11·40	7·20
67	11·05	1·00	11·05	7·60
68	10·70	1·00	10·70	8·00
69	10·35	1·00	10·35	8·40
70	10·00	1·00	10·00	8·80

SCHEDULE 2 Regulation 47

REGULATIONS HAVING RETROSPECTIVE EFFECT

Column (1)	Column (2)	Column (3)
3 to 14(*a*), 14(*c*) to 26, 32, 45, 46(1)(*a*) and 46(2)	6th April 1978	
14(*b*)	6th April 1978	In relation to any person ceasing to be an officer on or after 6th April 1978.
31, 43(*a*)	1st July 1977	
40, 41	31st March 1977	
46(1)(*b*)	6th April 1978	In relation to any person becoming an officer on or after 6th April 1978.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations further amend the National Health Service (Superannuation) Regulations 1961 to 1975 which provide for the superannuation of persons engaged in the National Health Service.

The main changes are—

(*a*) The scheme is amended so that it complies with the contracting-out requirements of the Social Security Pensions Act 1975 in relation to members of the main National Health Service scheme and those who have chosen to remain subject to the terms of certain schemes instead of joining the main scheme (regulations 3 to 15, 16(*b*), 17, 18, 19(*d*) and 21 to 26).

(*b*) For members who leave the scheme on or after 6th April 1978, the exclusion of the right to a return of contributions where earnings have exceeded £5,000 will only apply to those who are aged 26 or over with five years or more of qualifying service (regulation 14(*b*)).

(*c*) Persons who exercised an option to remain subject to the terms of a former scheme are given the opportunity to join the main National Health Service scheme, and provision is made so that new options of this kind will no longer be permitted (regulations 16(*a*), 19(*a*), (*b*) and (*c*) and 20).

(*d*) In the case of a repayment of transfer payments made to the Superannuation Scheme of the Commission of the European Communities, rights under these regulations are preserved (regulations 28 (except sub-paragraph (*b*)(ii) and (*c*)) and 43(*c*)).

(*e*) Provision is made for the payment or acceptance of bulk transfer payments in respect of persons transferred from or to the National Health Service scheme (regulations 31 and 43(*a*)).

(*f*) The six month period in which a person who leaves NHS employment and takes up new employment must give written notice that he wishes a transfer payment to be made, may be extended at the Secretary of State's discretion (regulation 43(*b*)).

(*g*) A whole-time chaplain who joins the scheme on 6th April 1978 may count, for the purposes of determining entitlement to benefits, any previous similar employment (regulation 32).

(*h*) Members may resume payments for added years of service etc. after a break in service of six months, or in a certain case a longer period. The time limit for completion of payments for purchase of additional service following termination of employment is similarly extended (regulations 33 to 35).

(*i*) The time limit for optants to complete payments for the purchase of back service widow's pension cover on leaving NHS employment is extended to six months, or longer in certain cases. Provision is also made to allow former optants to continue payments for back service widow's pension cover (regulation 36).

(*j*) Where any payment of remuneration has been withheld in the national interest the benefits of affected officers who are optants for insurance policy schemes under regulations 45 and 75 may be provided as if the payment had not been withheld (regulations 37 and 42).

(*k*) An amendment is introduced requiring women who are nurses, midwives, physiotherapists or health visitors to have rendered five years' service in that capacity before being able to retire on pension at age 55 (regulation 38).

(*l*) Revised arrangements are introduced for the treatment of certain employments as service as a practitioner (regulations 40 and 41).

(*m*) Dental practitioners paid under new arrangements where they receive a minimum salary plus a fluctuating element will be treated as practitioners rather than salaried officers (regulation 27).

In accordance with section 12(1) of the Superannuation Act 1972, regulations 40 and 41 have retrospective effect as from 31st March 1977; regulations 31 and 43(*a*) as from 1st July 1977; regulations 3 to 26, 32, 45, 46(1)(*a*), (*b*) and 46(2) as from 6th April 1978 (regulation 47).

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