STATUTORY INSTRUMENTS

# 1968 No. 1285

# PENSIONS

## The Pensions Increase (Approved Schemes) (National Health Service) Regulations 1968

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| *Made* - - - - | *7th August* 1968 |
| *Laid before Parliament* | *16th August* 1968 |
| *Coming into Operation* | *21st August* 1968 |

The Minister of Health, in exercise of the powers conferred upon him by section 3(2)(*b*)(i) and (4) of the Pensions (Increase) Act 1965(a) and of all other powers enabling him in that behalf, with the consent of the Treasury, hereby makes the following regulations:—

*Title and commencement*

**1.** These regulations may be cited as the Pensions Increase (Approved Schemes) (National Health Service) Regulations 1968, and shall come into operation on 21st August 1968.

*Interpretation*

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

"the Act of 1965" means the Pensions (Increase) Act 1965;

"average remuneration", in relation to a person, means the annual average of his remuneration as it would have been calculated if he had been superannuable under the Regulations in respect of his reckonable service;

"dependant", in relation to a woman, means a person who is to the satisfaction of the Minister wholly or mainly supported by that woman and who either has not attained the age of 16 years or is receiving instruction or undergoing training as referred to in section 1(5) of the Pensions (Increase) Act 1959(b) (as applied by section 1(2) of the Act of 1965);

"employing authority" means an authority which is, or is deemed to be, an employing authority for the purposes of the Regulations;

"minimum pensionable age", in relation to a person, means the earliest age at which he could have become entitled to a pension (other than a pension payable consequent on physical or mental infirmity) if he had been superannuable under the Regulations;

"the Minister" means the Minister of Health;

"notional pension", in relation to a person, has the meaning assigned to it by regulation 5 of these regulations;

"reckonable service", in relation to a person, has the meaning assigned to it by the schedule to these regulations;

(a) 1965 c. 78. (b) 1959 c. 50.

" the Regulations " means the National Health Service (Superannuation) Regulations 1961(a) as amended(b) ;

" statutory pension increases " means the benefits conferred by—

(i) section 1 of the Pensions (Increase) Act 1952(c) ;

(ii) section 1 of the Pensions (Increase) Act 1956(d) ;

(iii) section 1 of the Pensions (Increase) Act 1959 ;

(iv) sections 1 and 2 of the Pensions (Increase) Act 1962(e) ; and

(v) section 1 of the Act of 1965,

on persons whose superannuation benefits are regulated under the Superannuation Act 1965(f) ;

" superannuation scheme " means the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved by the Treasury for the purposes of section 3 of the Act of 1965 ;

" superannuable under the Regulations ", in relation to a person, means entitled to participate in the superannuation benefits provided by the Regulations (other than regulations 43 and 45).

(2) The Interpretation Act 1889(g) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires, references to any enactment or regulations shall be construed as references to that enactment or those regulations as amended or extended by any other enactment or regulations.

*Effect of these regulations*

**3.** These regulations shall apply for the payment to persons described in regulation 4 hereof of the allowances described in regulation 6, being allowances which appear to the Minister to be appropriate having regard to the statutory pension increases.

*Persons to whom the regulations apply*

**4.**—(1) These regulations shall apply to any person who—

(*a*) has ceased to be employed by an employing authority on or after attaining minimum pensionable age or on account of physical or mental infirmity ; and

(*b*) immediately before ceasing to be so employed—

(i) was subject to a superannuation scheme ; and

(ii) had completed 10 years' reckonable service ; and

(*c*) has received or has become entitled to receive payment of any retirement benefit under a superannuation scheme ; and

(*d*) either—

(i) has attained the age of 60 years ; or

(ii) has retired on account of physical or mental infirmity, or is to the satisfaction of the Minister disabled by physical or mental infirmity or permanently incapacitated by such infirmity from engaging in any regular full-time employment ; or

(iii) is a woman who has at least one dependant.

(a) S.I. 1961/1441 (1961 II, p. 2824). (b) S.I. 1966/1523 (1966 III, p. 4309). (c) 1952 c. 45.
(d) 1956 c. 39. (e) 11 & 12 Eliz. 2. c. 2. (f) 1965 c. 10. (g) 1889 c. 63.

(2) For the purposes of the preceding paragraph, a person who was entitled to receive, and received, payment of any retirement benefit under a superannuation scheme within 12 months of minimum pensionable age shall be deemed to have attained that age.

*Notional pension*

**5.**—(1) There shall be ascribed to each person to whom these regulations apply a notional pension calculated on the following basis—

(*a*) for each year of reckonable service, one eightieth of his average remuneration; and

(*b*) for any additional fraction of a year of reckonable service which exceeds 6 months, one one hundred and sixtieth of his average remuneration.

(2) In calculating a notional pension any fraction of a pound shall be treated as a whole pound.

(3) Where a person is receiving a supplementary payment under regulation 46(3) of the Regulations (which provides for supplementary payments in the case of certain officers), the amount of his notional pension shall be reduced by such amount as the Minister may determine as representing that part of the supplementary payment which is referable to employment under an employing authority on and after 5th July 1948.

(4) Where the amount of a notional pension ascribed to any person does not exceed £26 a year, these regulations shall not apply to him unless he is receiving a supplementary payment as referred to in paragraph (3) of this regulation.

*Payments of benefits equivalent to statutory pension increases*

**6.** The Minister shall, in respect of any period beginning on and after 1st July 1966, pay to any person to whom these regulations apply an allowance equal to the statutory pension increases which would have been payable to him if he had been eligible under the Superannuation Act 1965 for a pension of the same amount as his notional pension, beginning on the day after the last day of his reckonable service.

## SCHEDULE Regulation 2(1)

*Meaning of reckonable service*

1. Subject to the provisions of this schedule, a person's reckonable service shall be a period equivalent to the aggregate of any periods of employment which—

(*a*) have been spent in any employment described in paragraph 2 of this schedule and

(*b*) have become reckonable under a superannuation scheme as described in paragraph 3 of this schedule.

2. The employments to which paragraph 1 of this schedule relates are—

(i) employment under an employing authority or an authority which was, or was deemed to be, an employing authority for the purposes of the National Health Service (Superannuation) (Scotland) Regulations 1961(**a**);

(ii) employment in which the person was subject to any regulations or scheme made under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(**b**), section 61 of the Health Services Act (Northern Ireland) 1948(**c**) or section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald);

(**a**) S.I. 1961/1398 (1961 II, p. 2697). (**b**) 1950 c. 10 (N.I.). (**c**) 1948 c. 3 (N.I.).

(iii) employment in the civil service of the State :

(iv) employment under an employing authority or a local Act authority within the meaning of section 1(3) of the Local Government Superannuation Act 1937(a) or section 1(6) of the Local Government Superannuation (Scotland) Act 1937(b) ;

(v) employment by a district nursing association during any period when a local health authority had arrangements with, or paid contributions to, that association under Part III of the National Health Service Act 1946(c).

3. For the purposes of paragraph 1 of this schedule a period of employment shall be deemed to have become reckonable under a superannuation scheme if—

(*a*) during such period the person was subject to a superannuation scheme and the contributions authorised or required to be paid by the employer were duly paid, or

(*b*) such period was taken into account in calculating a sum in the nature of a transfer value paid to that scheme under the Regulations or any corresponding provision in force in Scotland, Northern Ireland or the Isle of Man or under rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(d):

Provided that—

(i) so much of any period referred to in sub-paragraph (*b*) as consisted of non-contributing service shall be reckonable under this paragraph at half its actual length, and

(ii) so much of any such period as consisted of part-time service shall be reckonable under this paragraph as though it were whole-time service for a proportionately reduced period.

4. For the purposes of regulation 4(1)(*b*)(ii) of these regulations, there may be added to the service described in paragraph 1 of this schedule any period of previous service which would have been reckonable under regulation 22 of the Regulations (which provides for the reckoning of qualifying service in certain cases) or any corresponding provision in force in Scotland, Northern Ireland or the Isle of Man.

5. For the purposes of paragraph 3(*a*) of this schedule no account shall be taken of any period of employment preceding a break of 12 months or more during which the person was not in employment described in paragraph 2 hereof

Given under the official seal of the Minister of Health on 1st August 1968.

(L.S.)

*Kenneth Robinson,*
Minister of Health.

We consent to these regulations.

*E. Alan Fitch,*
*Joseph Harper,*
Two of the Lords Commissioners of Her Majesty's Treasury.

7th August 1968.

(a) 1937 c 68. (b) 1937 c. 69. (c) 1946 c. 81. (d) 1948 c. 33.

## EXPLANATORY NOTE

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

Certain persons who retired from employment in the National Health Service elected to secure their superannuation benefits through schemes which operated by way of insurance policies to produce lump sums or annuities, or both, upon retirement. These Regulations provide for the payment of allowances corresponding broadly to the increases for which they would have been eligible under the Pensions (Increase) Acts 1952, 1956, 1959, 1962 and 1965 had they been pensionable under the National Health Service Superannuation Scheme.

The relevant schemes are the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved for this purpose by the Treasury.

The conditions of entitlement combine, with necessary modifications, the conditions for a health service pension and the conditions for increases under the Pensions (Increase) Acts. The principal of these are, broadly, that the person—

(i) completed 10 years' qualifying service in health service or local government employment or certain types of related employment or the civil service ;

(ii) retired in circumstances in which a person subject to the health service scheme could have retired with a pension ;

(iii) has attained the age of 60 years, or is incapacitated, or is a woman who has a dependant.

The allowances are payable, as from 1st July 1966, upon a notional pension, which is an amount (defined in regulation 5) corresponding broadly to the pension the person would have received if he had been in the health service scheme and entitled to reckon under that scheme certain service during which he was within the Federated Superannuation Scheme for Nurses and Hospital Officers or any other approved scheme.

Retrospective payment is authorised by section 3(4) of the Pensions (Increase) Act 1965.