STATUTORY INSTRUMENTS

1972 No. 1222

PENSIONS

The Pensions Increase (Approved Schemes) (National Health Service) Regulations 1972

Made - - - -	*8th August* 1972
Laid before Parliament	*16th August* 1972
Coming into Operation	*9th September* 1972

The Secretary of State for Social Services in exercise of his powers under section 13(2), (4) and (5) and Schedule 6 to the Pensions (Increase) Act 1971(**a**) and of all other powers enabling him in that behalf, with the approval of the Minister for the Civil Service, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Pensions Increase (Approved Schemes) (National Health Service) Regulations 1972 and shall come into operation on 9th September 1972.

Interpretation

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

"the Act of 1971" means the Pensions (Increase) Act 1971 as amended by sections 25 and 29 of, and schedules 6 and 8 to, the Superannuation Act 1972 (**b**);

"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 Secretary of State wholly or mainly supported by that woman and who either has not attained the age of 16 years or is receiving full-time instruction at an educational establishment or is undergoing training for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years;

(**a**) 1971 c. 56. (**b**) 1972 c. 11.

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

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

"superannuation scheme" means the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved by the Minister for the Civil Service for the purposes of section 13(2)(*b*) of the Act of 1971;

"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);

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

"the Secretary of State" means the Secretary of State for Social Services.

(2) The Interpretation Act 1889**(c)** 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, or to the provisions of that enactment or those regulations as continued by any other enactment or regulations, or to that enactment or those regulations as deemed to have been made under any other enactment or regulations.

Application of these regulations

3. These regulations shall apply for the payment to persons described in regulation 4 hereof of the amounts described in regulation 6.

Persons to whom these regulations apply

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

(*a*) has ceased to be employed by an employing authority; and

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

(i) was subject to a superannuation scheme; and

(ii) had completed the minimum period of reckonable service and had satisfied any other requirements which would qualify a person for a pension under the Regulations either—

(A) immediately upon ceasing such employment; or

(B) subsequently upon reaching such age as is specified in the Regulations, and

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

(a) S.I. 1961/1441 (1961 II, p. 2824). **(b)** S.I. 1966/1523 (1966 III, p. 4309).
(c) 1889 c. 63.

(*d*) either—

(i) has attained the age of 60 years or the minimum age provided for by an order made under section 3(8) of the Act of 1971 and, in the case of a person to whom paragraph (1)(*b*)(ii)(B) of this regulation applies, has attained the age referred to therein; or

(ii) has retired on account of physical or mental infirmity, or has satisfied the Secretary of State that he is disabled by physical or mental infirmity; or

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

(2) Notwithstanding the provisions of paragraph (1)(*a*) and (*b*) of this regulation, in the case of a person to whom paragraph (1)(*b*)(ii)(B) of this regulation applies and who, within 12 months of ceasing to be employed by an employing authority, enters into any of the employments mentioned in paragraph 2 of the schedule to these regulations in respect of which the requirements of paragraph 3(*a*) of that schedule have been fulfilled, these regulations shall apply only in respect of any further termination of employment under an employing authority and not in respect of any previous termination.

Notional pension and lump sum

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) 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 Secretary of State 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.

(3) 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 (2) of this regulation.

(4) In calculating a notional pension in respect of a person to whom a notional pension was ascribed under the Pensions Increase (Approved Schemes) (National Health Service) Regulations 1968**(a)**, as amended **(b)**, any fraction of a pound shall be treated as a whole pound.

(5) Where a person to whom these regulations apply leaves employment in circumstances in which, if the Regulations had applied, he would have been awarded a lump sum retiring allowance which he would not have become entitled to receive until he

(*a*) attained such age as is specified in the Regulations; or

(*b*) became permanently incapacitated before attaining that age,

there shall be ascribed to him a notional lump sum retiring allowance calculated on the following basis—

(i) for each year of reckonable service, three eightieths of his average remuneration; and

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(a) S.I. 1968/1285 (1968 II, p. 3603) **(b)** S.I. 1969/1447 (1969 III, p. 4678).

(ii) for any additional fraction of a year of reckonable service which exceeds 6 months, three one hundred and sixtieths of his average remuneration.

Payments of benefits equivalent to statutory pension increases

6. The Secretary of State shall, in respect of any period beginning on or after 1st September 1971, pay to a person to whom these regulations apply amounts equal to the benefits which would have been conferred on him by the Act of 1971 if—

(*a*) he had been eligible under the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 for a pension of the same amount as his notional pension as calculated under paragraphs (1) to (4) of regulation 5 of these regulations, or a lump sum of the same amount as his notional lump sum retiring allowance as calculated under paragraph (5) of regulation 5 of these regulations, or both such pension and lump sum as the case may be, beginning on the day after the last day of his reckonable service; and

(*b*) any allowance which, but for the Act of 1971, would have been paid to him under the Pensions Increase (Approved Schemes) (National Health Service) Regulations 1968, as amended, were a relevant increase within the meaning of section 6(10) of that Act.

SCHEDULE

Regulations 2(1) and 4(2)

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 67 of and schedule 8 to the Health Services Act (Northern Ireland) 1971**(c)** or section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald);

(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**(d)** or section 1(6) of the Local Government Superannuation (Scotland) Act 1937**(e)**; and

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(a) S.I. 1961/1398 (1961 II, p. 2697).
(b) 1950 c. 10. (NI)
(c) 1971 c. 1. (NI)
(d) 1937 c 68.
(e) 1937 c. 69.

(v) employment by a county or 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(a) or Part III of the National Health Service (Scotland) Act 1947(b) or section 10 of the Health Services and Public Health Act 1968(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.

Keith Joseph,
Secretary of State for Social Services.

8th August 1972.

Approval of the Minister for the Civil Service given under his Official Seal on 8th August 1972.

(L.S.)

A. W. Wyatt,
Authorised by the Minister for the Civil Service.

(a) 1946 c. 81.
(b) 1947 c. 27.
(c) 1968 c. 46.
(d) 1948 c. 33.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations provide for payments to certain persons who retire from employment in the National Health Service having elected to secure their superannuation benefits through schemes which operate by way of insurance policies to produce lump sums or annuities, or both, upon retirement, and who would have been eligible for increases under the Pensions (Increase) Act 1971 had they been pensionable under the National Health Service superannuation scheme.

The relevant schemes are the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers and any other scheme approved for this purpose by the Minister for the Civil Service.

The conditions of entitlement combine, with necessary modification, those for a health service pension and those for increases under the Pensions (Increase) Act 1971. The principal conditions are that the person—

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

(ii) would have been entitled to receive payment of a pension had he been subject to the health service scheme up to the date of his retirement; and

(iii) has attained the age of 60 years, or any earlier age prescribed under section 3(8) of the Pensions (Increase) Act 1971, or is incapacitated, or is a woman who has a dependant.

The payments are based on a notional pension and, where appropriate, a notional lump sum (defined in regulation 5) corresponding broadly to the pension and any deferred lump sum 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, the Federated Superannuation System for Universities or any other approved scheme.

In accordance with the power conferred by section 13(5) of the Pensions (Increase) Act 1971, the Regulations provide for the payments to take effect from 1st September 1971.

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