

1973 No. 1649

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Superannuation) (Amendment)
(No. 3) Regulations 1973**

<i>Made</i> - - - -	1st October 1973
<i>Laid before Parliament</i>	9th October 1973
<i>Coming into Operation</i>	1st November 1973

The Secretary of State for Social Services, in exercise of powers conferred by section 110 of the National Insurance Act 1965(a) (in accordance with which section the Treasury had determined the Minister of Health was the appropriate Minister for the purposes of that section to make regulations modifying the scheme for the provision of pensions and other benefits established by regulations made under section 67 of the National Health Service Act 1946(b)) and now vested in him (c), and in exercise of powers conferred by sections 10 and 12 of the Superannuation Act 1972(d) 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:—

Citation and commencement

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (Amendment) (No. 3) Regulations 1973 and shall come into operation on 1st November 1973.

(2) The National Health Service (Superannuation) Regulations 1961 to 1973(e) and these regulations may be cited together as the National Health Service (Superannuation) Regulations 1961 to 1973.

Interpretation

2.—(1) In these regulations “the principal regulations” means the National Health Service (Superannuation) Regulations 1961(f), as amended (e), and other words and expressions used have the same meanings as in the principal regulations.

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

(a) 1965 c. 51.	(b) 1946 c. 81.
(c) Secretary of State for Social Services Order 1968, Article 2, S.I. 1968/1699 (1968 III, p. 4585) (which transferred all functions of the Minister of Health to the Secretary of State).	(e) S.I. 1973/731 (1973 I, p. 2353).
(d) 1972 c. 11.	(g) 1889 c. 63.
(f) S.I. 1961/1441 (1961 II, p. 2824).	

Amendments relating to reduction of pension or injury allowance in certain cases

3. For regulation 39 of the principal regulations (reduction of pension or injury allowance) there shall be substituted the following regulation—

“Reduction of pension in certain cases

39.—(1) Where a person who has become entitled to a pension—

(a) continues in or enters the employment of an employing authority as defined in regulation 2(1) of these regulations or in regulation 2(2) of the National Health Service (Superannuation) (Scotland) Regulations 1961(a); or

(b) continues in or enters any other employment in which he participates in the benefits provided under these regulations or the National Health Service (Superannuation) (Scotland) Regulations 1961, as amended(b),

he shall forthwith give notice in writing to his employer and to such other person as the Secretary of State may specify that he continues in or has entered such employment having become entitled to such pension, and, until he attains the age of 70 years, such pension shall be liable to reduction under this regulation:

Provided that the reference in sub-paragraph (a) of this paragraph to an employing authority shall not be deemed to include an employer with whom an agreement has been made under section 18 of the National Health Service (Amendment) Act 1949(c) or in respect of whom a direction has been made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967(d).

(2) Whilst a person holds any employment to which paragraph (1) of this regulation applies, being employment—

(a) as a practitioner, or

(b) in which the remuneration consists of or includes fees, variable allowances, or other payments not of a fixed nature, or

(c) which is not expressed to be for a regular number of hours in a pay period, or

(d) which is concurrent with some other employment to which this paragraph applies,

the pension payable for any quarter shall be so reduced (if necessary) as to ensure that his uprated pension for that quarter together with his re-employment earnings in that quarter do not exceed one-quarter of his pre-retirement earnings uprated to the last day of that quarter.

(3) (a) Whilst a person holds any employment to which paragraph (1) of this regulation applies other than an employment to which paragraph (2) of this regulation applies, the rate of pension payable shall be so reduced (if necessary) as to ensure that the rate of his uprated pension at the date of commencement of that employment together with the rate of his re-employment earnings at that date do not exceed his pre-retirement earnings uprated to that date.

(a) S.I. 1961/1398 (1961 II, p. 2697).
(c) 1949 c. 93.

(b) S.I. 1973/746 (1973 I, p. 2379).
(d) 1967 c. 28.

- (b) For the purposes of this paragraph—
- (i) an employment which was held on 1st October 1972 shall be deemed to have commenced on that date;
 - (ii) a continuing employment shall be deemed to have commenced on the day on which the pension commenced; and
 - (iii) an employment shall be deemed to end and a new one commence—
 - (a) on a change in the number of hours required to be worked in a pay period, except for the first 30 days during which the hours are increased in any period of 12 months;
 - (b) on a change of grade other than as a result of re-structuring of grades, except for the first 30 days during which there is a change to a higher grade in any period of 12 months;
 - (c) on the cessation or commencement of a concurrent employment to which this paragraph applies;
 - (d) in the case of an employment to which paragraph (2) (d) of this regulation applies, on the cessation of all concurrent employment to which paragraph (2) of this regulation applies;
 - (e) on the employee attaining such age or satisfying the other conditions which comprise qualifying conditions under the Pensions (Increase) Act 1971(a) and thereupon becoming entitled to pensions increase under that Act; or
 - (f) on a change in the conditions or terms of employment which, in the opinion of the Secretary of State, constitutes a new employment.
- (4) In this regulation—
- (a) “annual rate of remuneration” in relation to a person means the annual rate of so much of his remuneration as consisted of salary, wages or other payments or emoluments of a fixed nature as was payable immediately before he last became entitled to a pension, together with so much of his remuneration as consisted of fees and other payments or emoluments not of a fixed nature as was payable during the last year before he became so entitled or, in the case of a practitioner, the annual average of such payments during the last three financial years before he became so entitled;
 - (b) “continuing employment” means any employment to which paragraph (1) of this regulation applies which a person held immediately before he became entitled to the said pension and which he continues to hold;
 - (c) “pension” means a pension payable under these or the previous regulations, and includes an allowance under regulation 10 or the corresponding provision of the previous regulations;
 - (d) “uprated pension” means the aggregate amount of all pensions payable for the quarter specified in paragraph (2) of this regulation, or the aggregate of all pensions payable at the date specified in paragraph (3) of this regulation, together (in either case) with any increases thereon payable under the Pensions (Increase) Act 1971;

- (e) “pre-retirement earnings” means—
- (i) in the case of a person who last became entitled to a pension in relation to employment as a practitioner or employment in which the service was deemed to be service as a practitioner, the average of the annual amounts of remuneration for service which was or was deemed to be service as a practitioner during each of the three consecutive financial years when it was greater than in any other three consecutive financial years,
 - (ii) in the case of a person who last became entitled to a pension in relation to employment otherwise than as a practitioner and in which the service was not deemed to be service as a practitioner, the annual rate of remuneration in such employment or the average remuneration of such employment, whichever is the greater, and
 - (iii) in the case of a person to whom sub-paragraphs (i) and (ii) of this paragraph applied simultaneously, the aggregate of the amounts calculated under those sub-paragraphs:
- Provided that such pre-retirement earnings shall be increased by the annual rate of remuneration of any continuing employment;
- (f) “pre-retirement earnings uprated” means the pre-retirement earnings uprated to the specified date by an amount equal to any increase which would have been payable at such date under the Pensions (Increase) Act 1971 on a pension of the same amount as the pre-retirement earnings and beginning on the day following the last day of service had that Act applied to such pension:
- Provided that where an officer who is entitled to a pension ceases to be such an officer and thereby becomes entitled to a further pension, his pre-retirement earnings as uprated shall not be less than they would have been had he not become entitled to such further pension;
- (g) “re-employment earnings” means, in relation to employments to which paragraph (1) of this regulation applies, the person’s remuneration for the purposes of these regulations or the Scottish regulations, or such amount as would be that remuneration if in such employment he were an officer to whom these regulations applied.”.

Amendments relating to deferred benefits

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

- (a) For sub-paragraph (iv) of paragraph (1)(a) there shall be substituted the following sub-paragraph—
- “(iv) he has completed five years’ service not being service that is reckonable otherwise than under regulation 41 solely for the purpose of determining whether any benefit is payable under these regulations or he is a person to whom regulation 35(4) applies, and in either case he has not, within 12 months and without having become entitled to receive such benefit, again become an officer; and”.
- (b) For the proviso to paragraph (1) there shall be substituted the following proviso—
- “Provided that a person who satisfied the requirements of sub-paragraph (a)(iv) of this paragraph shall not on that account become

entitled to receive payment of such benefit until he also satisfies the requirements of paragraph (2) of this regulation.”.

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

“(2) A person who satisfied the requirements of paragraph (1)(a)(iv) of this regulation shall satisfy the requirements of this paragraph—

- (a) when, not then being an officer, he attains the age of 60 years or, in the case of a person to whom the conditions of paragraph (4)(a) of this regulation are applicable, the earliest age at which he would have been entitled to receive a pension under paragraph (1)(a)(ii) of this regulation; or
- (b) if he is an officer when he attains the age specified in sub-paragraph (a) of this paragraph, on ceasing thereafter to be an officer; or
- (c) if he satisfies the Secretary of State that he is permanently incapacitated by physical or mental infirmity from engaging in regular employment; or
- (d) on subsequently becoming entitled to receive some other benefit under paragraph (1) of this regulation:

Provided that—

- (i) a person shall not be able to satisfy the requirements of this paragraph if there have been returned to him his contributions for any service to which the benefit in question related or any concurrent or subsequent service; and
- (ii) in the case of a person to whom regulation 43 applies, for the reference in sub-paragraph (a) of this paragraph to the age of 60 years there shall be substituted a reference to age 60 or such later age at which he would have become entitled to receive a pension under these regulations on ceasing to be such an officer.”.

(d) In paragraph (5)—

- (i) in sub-paragraph (b), for the words “on ceasing to be employed in the circumstances mentioned in paragraph (1)(a)(iv) of this regulation” there shall be substituted the words “on ceasing after completing five years’ contributing service, or in circumstances in which regulation 35(4) applies to him, to be an officer to whom regulation 43 applies and not having, within 12 months and without having become entitled to receive such benefits, again become such an officer.”;
- (ii) in sub-paragraph (b)(i), for the words “on attaining” to the word “scheme” there shall be substituted the words “on satisfying the requirements of paragraph (2) of this regulation.”;
- (iii) in sub-paragraph (b)(ii), after the words “in the case of a woman,” there shall be inserted the words “or, in either case, if an officer on attaining that age, on ceasing thereafter to be an officer.”.

(e) In paragraph (6), for the words “who on his retirement elects not to receive such an allowance” there shall be substituted the words “who, on becoming entitled to receive payment of such an allowance, elects not to receive that allowance”.

Consequential amendments

5. In the principal regulations—

- (a) in regulation 2(1) (interpretation) in the definition of “service” the word “receive” in both places where it occurs shall be deleted, and for the words “, whether under these regulations or otherwise” there shall be substituted the words “under these or the previous regulations, other than a return of contributions”;
- (b) at the end of regulation 5(1) (honorary appointments) there shall be added the following proviso—
“Provided that sub-paragraph (a) of this paragraph shall not apply to any person who is entitled to benefits under regulation 8(1)(a)(iv).”;
- (c) in regulation 12 (allocation of part of pension etc.) for the word “employed” wherever it occurs there shall be substituted the words “an officer”;
- (d) in regulation 14(3A) (widow’s pension)—
(i) in sub-paragraph (a) the words “on retirement” shall be deleted;
(ii) in sub-paragraph (b) after the words “regulation 13(1)(a) or (b),” there shall be inserted the words “or on the death whilst entitled to benefits under regulation 8(1)(a)(iv) but before becoming entitled to receive payment of those benefits,”;
- (e) in regulations 14B(5) and 14C(2) (pensions of limited duration) for the words “paragraph 4” there shall be substituted the words “paragraph 5”;
- (f) in regulation 18(2) (intervals in service due to illness etc.) after proviso
(ii) there shall be added the following proviso—
“(iii) sub-paragraph (a) of this paragraph shall not apply to any person who is entitled to benefits under regulation 8(1)(a)(iv).”;
- (g) in regulation 19 (breaks between employments)—
(i) in sub-paragraph (b), after the word “applies” there shall be inserted the words “or a person who is entitled to benefits under regulation 8(1)(a)(iv)”;
(ii) in sub-paragraph (c), after the word “person” there shall be inserted the words “(other than a person who is entitled to benefits under regulation 8(1)(a)(iv))”;
- (h) in regulation 37 (calculation of interest on contributions) after proviso
(b) there shall be added the following proviso—
“(c) where an officer has become entitled to benefits under regulation 8(1)(a)(iv) and has again become an officer, then—
(i) in respect of his service for which he first became entitled to such benefits, interest shall be calculated only to the date when he last ceased to be an officer before becoming so entitled, and
(ii) no interest shall be added in respect of any subsequent period of service.”;
- (i) at the end of regulation 40(1) (combined benefits) there shall be added the following proviso—
“Provided that this regulation shall not apply in relation to any

benefit to which the person became entitled under regulation 8(5) or a corresponding arrangement under regulation 45 or in relation to any service taken into account in calculating that benefit.”;

(j) in regulation 43 (benefits of officers who have exercised certain options)—

(i) in paragraph (1), for the words “so long as he is an officer” to the end of proviso (a) there shall be substituted the words “so long as he is an officer to whom this regulation applies without a break of more than 12 months disregarding any period of an approved course of study or training:

Provided that—

(a) on again becoming an officer to whom this regulation applies, this regulation shall also apply to any period of employment during any such break as is mentioned in this paragraph which is reckonable as service in relation to his employment as an officer;”;

(ii) after paragraph (7) there shall be added the following paragraph—
“(8) Notwithstanding anything in this regulation,

(a) regulation 35(4) shall apply to an officer to whom this regulation applies, and

(b) where this regulation applies to an officer employed in a part-time capacity, regulation 33A shall apply for the calculation of his service in that employment and proviso (g) to regulation 34(1) shall apply for the calculation of his average remuneration in respect of that service.”;

(k) at the end of regulation 45 (persons subject to non-statutory schemes) there shall be added the following paragraph—

“(9) In carrying out any relevant scheme or arrangements under this regulation, the Secretary of State may, in any particular case, do so subject to any of the modifications provided by this paragraph—

(a) where the scheme or arrangements provide for a person’s benefits to be calculated by reference to his service and remuneration, any service in a part-time capacity may be counted at its equivalent whole-time length and the remuneration for such service may be taken to be its whole-time equivalent, and

(b) where the benefits under the scheme or arrangement are to be paid by the Secretary of State and a person ceases in the circumstances set out in regulation 8(5) to be an officer to whom this regulation applies, such benefits as are provided by that paragraph may be paid to him.”;

(l) in regulation 50 (female nurses etc.) and in regulation 51 (mental health officers) for the words “regulation 8” there shall be substituted the words “regulation 8(1)(a)(ii)”;

(m) for regulation 62 (application of regulations with modifications) there shall be substituted the following regulation—

“62. Until he attains the age of 70 years, these regulations shall apply to every practitioner as if he were an officer in the employment of an Executive Council and he shall not be regarded as having ceased

to be such an officer whilst he remains on a list of at least one Executive Council.”;

- (n) in regulation 79(1) (approved employment) after the word “person” where it first occurs there shall be inserted the words “(other than a person who is entitled to benefits under regulation 8(1)(a)(iv))”;
- (o) in paragraph 3(2) of schedule 1 (allocation of part of pension etc.) for the words “the date on which he ceases to be employed” there shall be substituted the words “he becomes entitled to receive payment of benefits”.

6. In regulation 54 (benefits not assignable)—

- (a) the existing regulation shall be numbered paragraph (1), and after the words “Subject to” there shall be inserted the words “paragraph (2) of this regulation and”;
- (b) after paragraph (1) there shall be added the following paragraph—

“(2) Where a loss to public funds has occurred as a result of fraud, theft or misconduct committed by an officer in connection with his employment, the Secretary of State may withhold an amount from any return of contributions or other benefit payable to or in respect of the officer under these regulations and on so doing shall furnish the officer with a certificate showing the amount withheld and the effect on the return of contributions or other benefit:

Provided that—

- (a) the amount withheld from a benefit, including the capital value of the amounts withheld from annual payments, shall not exceed the amount of the loss,
- (b) no amount shall be withheld from such part of any benefit as is attributable to service otherwise than as an officer, and
- (c) in the event of any dispute as to the amount of the loss no amount shall be withheld unless the amount of the loss becomes enforceable under an order of a competent court.”.

7. In regulation 25 of the National Health Service (Superannuation) (Amendment) Regulations 1966(a)—

- (a) in paragraphs (1), (3) and (4), for the words “who has ceased to be employed in the circumstances mentioned in” there shall be substituted the words “who is entitled to benefits under”;
- (b) for paragraph (5) there shall be substituted the following paragraph—

“(5) A person who has become entitled to benefits under regulation 8(1)(a)(iv) of the principal regulations shall not be treated for the purposes of regulations 12 and 15 of those regulations as having become entitled to those benefits until he becomes entitled to receive payment thereof.”.

Amendments relating to return of contributions

8. For regulation 35 of the principal regulations (return of contributions) there shall be substituted the following regulation—

“35.—(1) A person who on ceasing to be an officer does not become entitled to any other benefit under these regulations and who holds no other employment in which he is an officer shall be entitled to receive from the Secretary of State a return of his contributions which, if he is an excepted officer or ceased to be an officer otherwise than at his own request and otherwise than as a result of his misconduct or inefficiency, shall be increased by an amount equal to compound interest thereon:

Provided that—

- (a) no interest shall be added in respect of any period before becoming an officer unless he was subject to an enactment or scheme under which in the circumstances in which he ceased to be an officer his contributions would or might have been returned with interest; and
- (b) for the purposes of this paragraph a person shall not be regarded as entitled to an injury allowance if by reason of the provisions of regulation 10(4) no sum is for the time being receivable by him on account thereof.

(2) In this regulation the word “contributions” has the meaning assigned to it by regulation 2(8), but only in so far as any sums included in that definition—

- (a) have not been returned to the person or, if they have been returned to him, he has repaid the amount he received and any further amount which he is required under these or the previous regulations to pay, and
- (b) are attributable to service which was reckonable under these regulations immediately before he ceased to be an officer and in respect of which he has not become entitled to a benefit under these or the previous regulations and no transfer value has been paid under those regulations.

(3) Where the Secretary of State is charged to income tax on any amount paid under this regulation, the sum payable by him under this regulation shall be reduced by an amount equal to that tax.

(4) Where an officer would, apart from this paragraph, be entitled to receive under this regulation a return of his contributions and any of those contributions were paid in respect of remuneration exceeding £5,000 in any financial year, or were paid under some other superannuation scheme in which he was subject, on leaving, to a provision corresponding to this paragraph, he shall not be entitled to receive any payment under this regulation, but in lieu thereof shall be entitled to benefits under regulation 8(1)(a)(iv).”

Amendments relating to limited duration pensions and the initial rate of certain pensions and allowances

9. In the principal regulations—

- (a) in regulation 2(1) (interpretation), after the definition of “practitioner” there shall be inserted the following definition—

“quarter” means a period of three months ending on the last day of March, June, September or December, as the case may be;”;

- (b) in regulation 14(3B) (widow’s pension), for provisos (ii), (iii) and (iv) there shall be substituted the following provisos—

“(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.”;

- (c) in regulation 14B(2) (pensions of limited duration), for proviso (ii) there shall be substituted the following provisos—

“(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).”;

- (d) in regulation 14C(1) (pensions of limited duration), for the words “proviso (ii) thereto, and 14B(8)” there shall be substituted the words “proviso (ii) and (iii) thereto”.

Amendments relating to the reckoning of service in respect of certain periods of part-time employment

10.—(1) In regulation 33A of the principal regulations (calculation of part-time service)—

- (a) at the beginning of paragraph (3) there shall be inserted the words “Subject to the provisions of paragraph (8) of this regulation,”;

- (b) after paragraph (7) there shall be inserted the following paragraph—

“(8) The service reckonable in respect of all periods of part-time employment before 15th December 1966 which immediately before that date were reckonable as service as a practitioner, not being periods of service as a practitioner on the list of an Executive Council or as an assistant practitioner or periods during which the officer devoted substantially the whole of his time to the performance of specialist services pursuant to section 3 of the Act, shall be calculated as follows—

- (a) the remuneration in respect of all employments to which this paragraph applies shall be uprated to the end of such employments in such way as the Secretary of State, after consulting such professional organisations as appear to him to be appropriate, may determine and a notional pension shall be calculated at the rate of 1.4 per cent of such uprated remuneration;

- (b) the Secretary of State shall determine the remuneration that would have been payable in respect of a single notional whole-time employment comparable to the employments to which this paragraph applies and any other employments, not being periods of service as a practitioner on the list of an Executive Council or as an assistant practitioner, held before or at the same time as any employment to which this paragraph applies and a notional pension in respect of one year of contributing service shall be calculated at the rate of one-eightieth of the annual average of such remuneration in the last three years of such notional employment, or in the whole of such notional employment if less than three years;
- (c) the service reckonable in respect of the employments to which this paragraph applies shall be that period which bears the same relationship to one year of contributing service as the notional pension calculated under sub-paragraph (a) of this paragraph bears to the notional pension calculated under sub-paragraph (b) of this paragraph.”.

(2) In regulation 9(A)(2) of the principal regulations (additional benefits for certain officers) after the words “such fees had been his remuneration” there shall be added the words “and any service in respect of employment to which regulation 33A(8) applies were disregarded”.

11. After regulation 73 of the principal regulations there shall be added the following regulation—

“Modifications relating to certain part-time specialists

74.—(1) Where a benefit becomes payable to or in respect of a whole-time officer, other than a practitioner, whose reckonable service includes service before 15th December 1966 in respect of a period of part-time employment during which he devoted substantially the whole of his time to the performance of specialist services pursuant to section 3 of the Act, and it would be to his advantage if that benefit were calculated in accordance with this regulation, the benefit shall be so calculated.

(2) Notwithstanding any other provision of these regulations, such part of the benefit referred to in paragraph (1) of this regulation as is attributable to contributing service in respect of any period of part-time employment during which the officer devoted substantially the whole of his time to the performance of specialist services pursuant to section 3 of the Act, and to service in respect of any period of whole-time employment otherwise than as a practitioner, shall be calculated in accordance with the following provisions of this regulation—

- (a) all such service shall be deemed to be whole-time service otherwise than as a practitioner;
- (b) all periods of such service shall be aggregated and if such aggregate service includes a fraction of a year that fraction shall, if it exceeds 182 days, be treated as one-half of a year and in any other case shall be disregarded; and
- (c) the average remuneration shall be deemed to be the annual average of the remuneration during the last three years of such aggregate service.”.

Amendments relating to contributions

12.—(1) In regulation 7(1) of the principal regulations (contributions) for sub-paragraphs (a), (b) and the proviso there shall be substituted the following sub-paragraphs—

“(a) an amount to be paid by the officer equal to 5 per cent of his remuneration for the time being if his employment is by way of manual labour and 6 per cent in any other case; and

(b) an amount to be paid by the employing authority at such rate as the Secretary of State, on the advice of the Government Actuary and with the consent of the Minister for the Civil Service, may from time to time specify.”

(2) In regulation 52 of the principal regulations (modification of benefits and obligations)—

(a) in paragraph (2) the words “, and the amount” to the words “the like rate” shall be deleted; and

(b) in proviso (b) to paragraph (2) the words “, and the employing authority’s contributions shall not be reduced” shall be deleted.

(3) In regulation 10 of the National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations 1965(a), as amended (b), the words “or employing authority” shall be deleted.

Revocation

13.—(1) The following regulations are hereby revoked—

(a) Regulation 7(3) of the principal regulations;

(b) Regulation 73(c) of the principal regulations;

(c) Regulation 14B(8) of the principal regulations;

(d) Regulation 9 of the National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations 1965, as amended;

(e) Regulation 59 of the National Health Service (Superannuation) (Amendment) Regulations 1966; and

(f) The National Health Service (Superannuation) (Amendment) Regulations 1972(e).

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the regulations revoked by these regulations were an Act of Parliament repealed by an Act of Parliament.

Operative date and transitional provisions relating to deferred benefits

14.—(1) Regulations 4 to 7 of these regulations shall have effect as from 1st October 1972 in relation to any person who was an officer on or after that date.

(a) S.I. 1965/2179 (1965 III, p. 6382).
(c) S.I. 1972/1339 (1972 II, p. 4054).

(b) S.I. 1969/1472 (1969 III, p. 4725).

(2) Where within 12 months before 1st October 1972 a person has ceased to be either an officer or a person described in paragraph (5) of this regulation, regulations 4 to 7 of these regulations shall have effect in relation to him as from 1st October 1972 as though he had ceased to be an officer on that date.

(3) Where on 1st October 1972 a person was a person described in paragraph (5) of this regulation, regulations 4 to 7 of these regulations shall have effect in relation to him as though he had ceased to be an officer on that date:

Provided that in the case of such a person who on that date was in employment which was approved under regulation 79 of the principal regulations that regulation shall cease to apply to him as from that date, except that if he does not again become an officer, the Secretary of State may grant him the benefits which would have been payable under regulation 79(2)(a) or (b) of those regulations in lieu of any benefit payable under regulation 8(1)(a)(iv) of those regulations.

(4) The Secretary of State may, subject to such conditions as he may impose (which conditions may include a requirement to repay an amount equal to any sum paid by way of return of contributions together with an amount equal to any income tax which was deducted in respect of such payment), apply regulations 4 to 7 of these regulations in relation to any person who, not earlier than 12 months before 25th March 1972, ceased to be either an officer or a person described in paragraph (5) of this regulation as though that person had ceased to be such an officer or person on 1st October 1972 and as though any such return of contributions had not taken place.

(5) In this regulation a reference to a person described in this paragraph is to a person who, having completed five years' service not being service that is reckonable otherwise than under regulation 41 of the principal regulations solely for the purpose of determining whether any benefit is payable under those regulations, was, at the appropriate time,

- (a) a person to whom regulations 5 or 18(2) of the principal regulations applied, or
- (b) in employment which was approved under regulation 79 of the principal regulations, or
- (c) continuing in employment to which regulation 19(b) of the principal regulations applied, or
- (d) undertaking an approved course of study or training,
and did not, before 1st October 1972, again become an officer.

(6) Notwithstanding anything in this regulation, regulation 43(8)(a) of the principal regulations as added by regulation 5(j)(ii) of these regulations shall have effect as from 6th April 1973.

Date from which amendments take effect

15.—(1) Regulations 3 and 13(1)(b) shall have effect as from 1st October 1972.

(2) Regulations 9 and 13(1)(c) shall have effect as from 1st October 1972 in relation to any person who, on or after that date, was an officer or a person to whom regulation 18(1) of the principal regulations applied.

(3) Regulations 10, 11 and 13(1)(e) shall have effect as from 25th March 1972

in relation to any person who, on or after that date, was an officer or a person to whom regulation 18(1) of the principal regulations applied.

(4) Regulations 12 and 13(1)(a), (d) and (f) shall have effect as from 1st August 1973 in respect of any remuneration which is paid or deemed to have been paid on or after that date.

Keith Joseph,
Secretary of State for Social Services.

28th September 1973.

Consent of the Minister for the Civil Service given under his Official Seal on 1st October 1973.

(L.S.)

K. H. McNeill,
Authorised by the Minister for the Civil Service.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the National Health Service (Superannuation) Regulations 1961 which provide for the superannuation of persons engaged in the National Health Service (except employees of local health authorities and local education authorities).

The main changes are—

- (a) The provision under which certain re-employed pensioners receive only so much of their pensions as will, when added to their re-employment earnings, equal their pre-retirement earnings is revised so that the amounts of both the pension and the pre-retirement earnings used in the calculation are uprated to current values. Where the re-employment is remunerated at a fixed rate the limit on the pension payable is determined at the commencement of the employment and is re-calculated if the employment changes in nature. Where the re-employment is remunerated on a fluctuating basis, the limit on the pension payable is re-calculated each quarter (Regulation 3).
- (b) Members who leave the scheme after at least five years' service but before qualifying for immediate benefits may have their accrued benefits deferred until age 60 or later retirement from the Health Service; they continue to have the right to have their contributions returned instead if they prefer (Regulations 4, 5 and 7).
- (c) The discretion to recover from a return of contributions any loss caused by the member's fraud or misconduct is extended to all benefits under the scheme but in a considerably restricted form (Regulations 6 and 8).
- (d) Where at the time of a member's death his pay was reduced or suspended because of his illness or leave of absence, any initial or short-term benefit to his widow or dependants will be calculated on his unreduced remuneration (Regulation 9).
- (e) Subject to certain reserved rights, the method of calculating the benefits in respect of periods of part-time specialist service before 15th December 1966 is changed (Regulations 10 and 11).
- (f) The provisional increase in employees' contributions introduced from 1st October 1972 ceases as from 1st August 1973 and instead of being at fixed rates the rate of employers' contributions will be determined from time to time (Regulation 12).

In accordance with section 12(1) of the Superannuation Act 1972, Regulations 3 and 9 have retrospective effect as from 1st October 1972; Regulations 10 and 11 as from 25th March 1972; Regulation 12 as from 1st August 1973; and Regulations 4 to 7 (except for part of Regulation 5(j)(ii) which has effect as from 6th April 1973) have effect as from 1st October 1972 or earlier in individual cases at the discretion of the Secretary of State (Regulations 14 and 15).

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