

1973 No. 731

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Superannuation) (Amendment)
(No. 2) Regulations 1973**

<i>Made</i>	- - -	12th April 1973
<i>Laid before Parliament</i>		25th April 1973
<i>Coming into Operation</i>		15th May 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 any 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. 2) Regulations 1973 and shall come into operation on 15th May 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).

(d) 1972 c. 11.

(e) S.I. 1973/242 (1973 I, p. 898).

(f) S.I. 1961/1441 (1961 II, p. 2824).

(g) 1889 c. 63.

Amendments relating to practitioner benefits

3. Regulation 66 of the principal regulations (scales of pension and retiring allowance for a practitioner) shall be amended as follows:—

(1) For paragraph (2)(a) there shall be substituted—

“(2)(a) The pension to be paid in respect of service which is reckonable under these regulations as service as a practitioner shall be 1.4 per cent. of the total uprated remuneration in respect of that service, and for the purposes of this sub-paragraph—

- (i) subject to regulations 68 and 71(4), a practitioner’s total uprated remuneration shall be calculated by uprating his remuneration for all reckonable service as a practitioner in each financial year in such way as the Secretary of State, after consulting such professional organisations as appear to him to be appropriate, may determine and by adding together the uprated remuneration for each financial year, and
- (ii) remuneration paid during any financial year for service as a practitioner shall be regarded as being remuneration for such service in that year or, if there was no such service in that year, in the last preceding year in which there was any such service.”.

(2) In paragraph (2)(b) the words from “and for the purposes of this sub-paragraph” to the end of the paragraph shall be deleted.

4. The following regulation shall be inserted after regulation 70 of the principal regulations—

“Reckoning of practitioner service and remuneration

71.—(1) In order to determine the total service as a practitioner all periods of service as a practitioner shall be aggregated, and where two or more periods aggregate to 365 days or more each period of 365 days shall be reckonable as one year, service on 29th February in a leap year being disregarded.

(2) Where a pension is payable under regulation 8(1)(a)(i) to a practitioner whose service does not include any service otherwise than as a practitioner, his reckonable service shall be increased as follows—

- (a) if his contributing service does not exceed 10 years, by whichever is the less of either a period equal to such service or the period by which such service would have been increased if he had continued to be a practitioner until he had reached the age of 65 years; or
- (b) if his contributing service exceeds 10 years, by a period equal to whichever is the greater of the following—
 - (i) whichever is the less of either the period by which such service is less than 20 years or the period by which such service would have been increased if he had continued to be a practitioner until he had reached the age of 65 years; or
 - (ii) whichever is the less of either 6 years and 243 days or the period by which such service would have been increased if he had continued to be a practitioner until he had reached the age of 60 years.

(3) Where a pension is payable under regulation 8(1)(a)(i) to a practitioner whose service includes service otherwise than as a practitioner, his aggregate service as a practitioner and as an officer other than a practitioner shall be increased in the manner provided in paragraph (2) of this regulation, the period of service as a practitioner and as an officer other than a practitioner each being increased by the same proportion as the aforesaid aggregate service is increased.

(4) Where service as a practitioner is increased in accordance with paragraph (2) or (3) of this regulation, the total uprated remuneration as a practitioner shall be increased by the same proportion as the service as a practitioner is increased.”.

5. For the proviso to regulation 33(3) of the principal regulations (calculation of service) there shall be substituted—

“Provided that—

(i) in determining the period by which such service would have been increased if the officer had continued to be employed, no account shall be taken of any provision in these regulations for reckoning any period of service at more than its length; and

(ii) this paragraph shall not apply to an officer with service as a practitioner, but regulation 71(3) shall apply to such an officer as it applies to a practitioner with service otherwise than as a practitioner.”.

6. For regulation 67(2) of the principal regulations (amount of death gratuity, etc.) there shall be substituted—

“(2) For the purposes of regulation 13 and paragraphs (4) and (6) of regulation 66 the average remuneration in respect of a practitioner shall be an amount equal to the annual average of his total uprated remuneration as calculated in accordance with regulation 66(2)(a).”.

7. For regulation 68 of the principal regulations (treatment of prior officer service) there shall be substituted—

“Prior service to be treated as practitioner service

68. Where any person on first becoming a practitioner other than an assistant practitioner is entitled to reckon ten years or less of contributing service otherwise than as a practitioner such service shall, unless regulation 69 applies to it or the practitioner later has one year or more of employment reckonable as service otherwise than as a practitioner, be treated as service as a practitioner, the remuneration received in respect of that service being disregarded and, for the purposes of calculating any benefit, the total uprated remuneration as a practitioner being increased by the same proportion as the service as a practitioner has been increased.”.

8. For regulation 69 of the principal regulations (simultaneous employment as an officer and a practitioner) there shall be substituted—

“Employment as an officer and as a practitioner

69. Where a practitioner is entitled to reckon less than a year of contributing service otherwise than as a practitioner, and where an officer with

previous service as a practitioner has less than one year of employment reckonable as service otherwise than as a practitioner since last ceasing to be a practitioner, such service otherwise than as a practitioner shall be treated as service as a practitioner.”.

Consequential amendments

9.—(1) In proviso (iii)(iii) to regulation 13(1) of the principal regulations (death gratuity) the words “(other than service deemed to be so reckonable under regulation 66(3)(b))” shall be deleted.

(2) In regulation 67(1)(a) of the principal regulations (amount of death gratuity, etc.) the words “(other than service deemed to be so reckonable under regulation 66(3)(b))” shall be deleted.

(3) In regulation 59(1) of the National Health Service (Superannuation) (Amendment) Regulations 1966(a) (transitional provisions) the words “as a practitioner or”, in both places where they appear, shall be deleted.

(4) In proviso (ii) to regulation 52(3) of the principal regulations (modification of benefits and obligations) after the words “or 33A(7)” there shall be inserted the words “or 71(2) or (3)”.

10. For the purposes of part III of the National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations 1965(b), as amended(c), service added under regulation 71(2) or (3) of the principal regulations shall not be treated as attributable to any period of service in participating employment.

Revocation

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

Regulation 41(7), regulation 66(3)(b), (4)(b), (5)(b) and (6)(b).

(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.

Date from which amendments take effect

12. These regulations shall apply 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 of the principal regulations applied.

Keith Joseph,

Secretary of State for Social Services.

11th April 1973.

Consent of the Minister for the Civil Service given under his Official Seal on 12th April 1973.

(L.S.)

W. G. Bristow,

Authorised by the Minister for the Civil Service.

(a) S.I. 1966/1523 (1966 III, p. 4309).
(c) S.I. 1969/1472 (1969 III, p. 4725).

(b) S.I. 1965/2179 (1965 III, p. 6382).

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 calculation of benefits for service as a general medical or dental practitioner is related to the remuneration in each year uprated to take account of subsequent increases in levels of earnings instead of being related to the actual remuneration in each 10-year period (regulations 3, 5, 6 and 9).
- (b) Where a practitioner retires on grounds of ill-health a greater period of service may be credited to him and his uprated remuneration increased accordingly, and both his pension and lump sum retiring allowance will be calculated by reference to such increased remuneration (regulations 4 and 10).
- (c) The provisions for the treatment of certain employment as service as a practitioner are revised to take account of the new method of calculating practitioner benefits (regulations 7 and 8).

In accordance with section 12(1) of the Superannuation Act 1972, these regulations have retrospective effect as from 25th March 1972 (regulation 12).

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