

1980 No. 362

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Superannuation)
Regulations 1980**

<i>Made</i> - - - -	6th March 1980
<i>Laid before Parliament</i>	11th March 1980
<i>Coming into Operation</i>	1st April 1980

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

Regulation

1. Citation and commencement.
2. Interpretation.
3. Definitions.

PART II

PROVISIONS RELATING TO OFFICERS EMPLOYED BY EMPLOYING AUTHORITIES AND
OTHER OFFICERS ENGAGED IN HEALTH SERVICES OTHERWISE THAN IN THE
EMPLOYMENT OF LOCAL AUTHORITIES

4. Application.
5. Persons holding honorary appointments.
6. Participation in superannuation benefits.
7. Contributions.
8. Officer's pension and retiring allowance.
9. Rates of pension and retiring allowance.
10. Additional benefits for certain officers.
11. Additional benefits for certain transferred officers.
12. Allocation of part of pension to spouse or dependant.
13. Death gratuity.
14. Widow's pension.
15. Child's allowance.
16. Pensions of limited duration for widows and dependent children.
17. Pensions of limited duration for dependent children where there is no widow.
18. Widower's pension.
19. Power to compound small benefits.
20. Guaranteed minimum pension under the Pensions Act.

Regulation

21. Reckoning as service of previous periods of employment.
22. Intervals in service due to illness or injury.
23. Reckoning of service in certain continuing employments.
24. Reckoning of previous employment as qualifying service in certain cases.
25. Purchase of added years of contributing service.
26. Additional payments to reckon certain periods of service as contributing service at actual length.
27. Purchase of unreduced retiring allowance.
28. Limitation on reckonable service.
29. Reckoning of contributing service.
30. Continuation of additional contributory payments previously made under the Local Government Regulations 1954.
31. Continuation of additional contributory payments previously made under certain schemes.
32. Provisions with respect to added years.
33. Continuation of additional contributions by transferred officers.
34. Method of calculating service, contributing service and non-contributing service.
35. Calculation of service in part-time employment.
36. Meaning of average remuneration.
37. Return of contributions.
38. Calculation of interest on contributions.
39. Conditions attaching to grant of pension.
40. Reduction of pension in certain cases.
41. Separate benefits in the case of certain re-employed pensioners.
42. Combined benefits in the case of certain re-employed pensioners.
43. Calculation of benefits on death of re-employed pensioner.
44. Benefits of officers who have exercised option to retain rights corresponding with those previously enjoyed.
45. Additional pension for widows of certain optants.
46. Minimum benefits for certain optants.
47. Benefits of officers who did not exercise option to retain previous rights or in whose case options have ceased to have effect.
48. Persons subject to non-statutory superannuation schemes and arrangements.
49. Supplementary payments in the case of certain officers.
50. Discretionary payments in respect of certain officers.
51. Officers wishing to relinquish options.
52. Benefits in case of late entrants.
53. Holders of joint appointments.
54. Female Nurses, Physiotherapists, Midwives and Health Visitors.
55. Mental Health Officers.
56. Modification of benefits and obligations under these regulations in connection with the National Insurance Act 1946.
57. Modification of benefits and obligations under these regulations in connection with the Act of 1965.
58. Modification of benefits to take account of benefits under the Pensions Act.
59. Avoidance of duplicate benefits.
60. Benefits not assignable.
61. Payments without proof of title.
62. Forfeiture of rights.
63. Application to officers formerly employed in hospitals vested in or requisitioned by the Crown.
64. Application to officers formerly employed in the Blood Transfusion Service.
65. Application to officers on the staff of special hospitals.
66. Accounts and actuarial investigations.

PART III

PROVISIONS RELATING TO MEDICAL AND DENTAL PRACTITIONERS

Regulation

67. Application of regulations with modifications.
68. Amendment of certain references to age.
69. Meaning of "remuneration".
70. Amendments with respect to contributions, etc.
71. Rate of pension for a practitioner.
72. Prior service to be treated as practitioner service.
73. Employment as an officer and as a practitioner.
74. Treatment of national service in certain cases.
75. Reckoning of practitioner service and remuneration.
76. Further employment not to be taken into account for reduction of pension in certain cases.
77. Further modifications with respect to assistant practitioners.
78. Modifications relating to certain part-time specialists.
79. Continuation of contracts or policies of insurance in certain cases.

PART IV

MISCELLANEOUS

80. Rights on transfer to other employment.
81. Persons transferred to the Federated Superannuation Scheme for Nurses and Hospital Officers before 6th April 1975.
82. Provisions relating to approved employment.
83. Provisions relating to contributions on a former higher rate of remuneration.
84. Declaration of entitlement.
85. Determination of questions.
86. Revocation and general savings.

SCHEDULES

- Schedule 1—Allocation of part of pension.
- Schedule 2—The calculation of transfer payments and of service to be credited in respect of transfer payments made to the Secretary of State.
- Schedule 3—Reduction of pension under regulation 56(3).
- Schedule 4—Reduction of pension and retiring allowance under regulation 82(2).
- Schedule 5—Child's allowance.
- Schedule 6—Part-time employments.
- Schedule 7—Purchase of added years.
- Schedule 8—Purchase of unreduced retiring allowance.
- Schedule 9—Purchase of additional widow's pension.
- Schedule 10—Modification of benefits and obligations under these regulations in connection with the Act of 1965.
- Schedule 11—Transitional provisions relating to the purchase of an unreduced retiring allowance.
- Schedule 12—Revocation.

The Secretary of State for Social Services, in exercise of powers conferred upon him by sections 10(1), (2) and (3) and 12(1) and (2) of and Schedule 3 to 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. These regulations may be cited as the National Health Service (Superannuation) Regulations 1980, and shall come into operation on 1st April 1980.

Interpretation

2.—(1) (a) In these regulations any reference to non-contributing service under a local Act scheme shall be construed as a reference to non-contributing service as defined in the relevant local Act scheme.

(b) Nothing in these regulations shall confer or impose on a person who, under these regulations or the previous regulations exercises or has exercised, or is treated as having exercised an option to enjoy rights corresponding with those enjoyed by him immediately before becoming an officer, any rights or liabilities other than rights and liabilities corresponding with those which he enjoyed and to which he was subject immediately before becoming an officer.

(2) In these regulations any reference to a person's becoming an officer in consequence of the acquisition of premises under section 58 of the Act of 1946 (which relates to the acquisition of land required for the purposes of that Act) shall include a reference to—

(a) a person who becomes an officer in consequence of the transfer of hospitals or other premises or any functions to the Secretary of State otherwise than under the Act of 1946, or in consequence of any decision to administer any premises, services or functions under that Act, the Act of 1977 or any other Act relating to health services;

(b) notwithstanding paragraph (3), a person who before 1st April 1974 became an officer of a Regional Health Authority, Area Health Authority or Area Health Authority (Teaching) having left the employment of a local authority in circumstances in which if he had remained in that employment until immediately before that date he would have been transferred to the employment of an employing authority on that date.

(3) For the purposes of these regulations a person shall not be treated as having become an officer in consequence of the acquisition of premises under section 58 of the Act of 1946 unless, immediately before and at the date of acquisition he was employed at the premises, or for the purposes of the functions or services transferred as mentioned in paragraph (2)(a), and entered the employment of an employing authority as an officer in consequence of that acquisition or decision.

(4) Where a person holds under an employing authority 2 or more separate employments of such a nature that he can cease to hold one without ceasing to hold the other, the provisions of these regulations shall, unless the context otherwise requires apply to him in relation to each of the separate employments as if the other were an employment held by him under another employing authority.

(5) In these regulations, unless the context otherwise requires, references to an officer's contributions (except references in regulations 7, 29, 31, 32, 33, 44, 48, 56 and 70) shall be construed as including references to—

- (a) any sums contributed by him under regulation 7 or the corresponding provision of the previous regulations;
- (b) any sums paid by him by way of additional contributory payments;
- (c) any sum paid by him under regulation 25, 26, 27, 33, 45 or 46;
- (d) any sums contributed under any superannuation scheme during employment which is reckonable as service under the provisions of regulation 21; and
- (e) any sums paid by him under a scheme made under section 28(3) of the Widows', Orphans' and Old Age Contributory Pensions Act 1936(a) (which conferred a power to modify existing superannuation schemes), or the corresponding provisions of any Act repealed by that Act.

(6) Where the remuneration of an officer in respect of 2 or more concurrent periods of part-time employment exceeds an amount which the Secretary of State determines would have been paid to him in respect of a single comparable whole-time employment, no account shall be taken for the purposes of these regulations of any remuneration in excess of such an amount.

(7) Unless the context otherwise requires, any reference in these regulations to a numbered regulation, Part or Schedule is a reference to the regulation, Part or Schedule, as the case may be, which bears that number in these regulations and any reference to a numbered paragraph in a regulation of or a Schedule to these regulations is a reference to the paragraph bearing that number in that regulation, or as the case may be, that Schedule.

Definitions

3. In these regulations, unless the context otherwise requires:—

- “the Act of 1909” means the Asylum Officers' Superannuation Act 1909(b);
- “the Act of 1937” means the Local Government Superannuation Act 1937(c);
- “the Act of 1946” means the National Health Service Act 1946(d);
- “the Act of 1953” means the Local Government Superannuation Act 1953(e);
- “the Act of 1959” means the National Insurance Act 1959(f);
- “the Northern Ireland Act” means the National Insurance Act (Northern Ireland 1959)(g);
- “the Isle of Man Act” means the National Insurance (Isle of Man) Act 1961 (An Act of Tynwald);
- “the Act of 1965” means the National Insurance Act 1965(h);
- “the Act of 1972” means the Superannuation Act 1972;
- “the Act of 1973” means the National Health Service Reorganisation Act 1973(i);

-
- | | |
|--|------------------------|
| (a) 1936 c. 33. | (b) 1909 c. 48. |
| (c) 1937 c. 68 cited together with ss. 1(1), 2 and 3 of 1939 (c. 18) and 1953 (c. 25) as Local Government Superannuation Acts 1937-1953. | (e) 1953 c. 25. |
| (d) 1946 c. 81. | (g) 1959 c. 21 (N.I.). |
| (f) 1959 c. 47. | (i) 1973 c. 32. |
| (h) 1965 c. 51. | |

“the Pensions Act” means the Social Security Pensions Act 1975(a);

“the Act of 1977” means the National Health Service Act 1977(b);

“the Superannuation Acts” means the Superannuation Acts 1834 to 1965, the Superannuation Acts 1965 to 1967(c) and the Act of 1972;

“the Teachers Acts” means the Teachers (Superannuation) Acts 1918 to 1956, the Teachers’ Superannuation Act 1965(d), and the Teachers’ Superannuation Act 1967(e);

“the 1947 regulations” means the National Health Service (Superannuation) Regulations 1947(f), but shall not include any amendments made by any regulations amending them;

“the 1949 regulations” means the National Health Service (Superannuation) (Amendment) Regulations 1949(g);

“the 1950 regulations” means the National Health Service (Superannuation) Regulations 1950(h), but shall not include any amendments made by any regulations amending them;

“the 1955 regulations” means the National Health Service (Superannuation) Regulations 1955(i), but shall not include any amendments made by any regulations amending them;

“the original 1961 regulations” means the National Health Service (Superannuation) Regulations 1961(j), but shall not include any amendments made by any regulations amending them;

“the 1961 regulations” means the National Health Service (Superannuation) Regulations 1961(k);

“the previous regulations” means any regulations heretofore made under section 67(1) of the Act of 1946 or section 10 of the Act of 1972;

“the Local Government Regulations 1954” means the Local Government Superannuation (Benefits) Regulations 1954(l), but shall not include any amendments made by any regulations amending them;

“the National Insurance Regulations 1974” means the National Insurance (Non-participation—Transitional Provisions) Regulations 1974(m);

“the Scottish regulations” means the regulations for the time being in force made under section 10 of the Act of 1972 in relation to Scotland;

“the Teachers’ Regulations” means the Teachers’ Superannuation Regulations 1976(n);

“added years”, in relation to any person, means any additional years of service reckonable by him under—

(a) regulation 12 of the Local Government Regulations 1954;

(b) any corresponding provision of any other superannuation scheme;

-
- | | |
|--|--|
| (a) 1975 c. 60. | (b) 1977 c. 49. |
| (c) 1965 c. 74 and ss. 1, 2(2) and 2(3) of 1967 (c. 28) cited together as the Superannuation Acts 1965-1967. | |
| (d) 1965 c. 83. | (e) 1967 c. 12. |
| (f) S.R. & O. 1947/1755. | (g) S.I. 1949/1467. |
| (h) S.I. 1950/497. | (i) S.I. 1955/1084. |
| (j) S.I. 1961/1441. | (k) S.I. 1961/1441 (as variously amended). |
| (l) S.I. 1954/1048. | (m) S.I. 1974/2057. |
| (n) S.I. 1976/1987 (as variously amended). | |

- (c) the said regulation 12 or any such provision as aforesaid as applied by regulations made under the Third or Fourth Schedule to the Act of 1953;
- (d) regulation 15 of the Teachers' Regulations; or
- (e) regulation 25,

and includes any additional years of service which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become reckonable under or by virtue of any enactment by a contributory employee or an employee subject to any other superannuation scheme;

“additional contributory payment” has the same meaning as in the Act of 1937, and includes any payment made for the purposes of regulations 29(1)(d), 30 and 31 and regulations 23 and 29(7) of the 1961 regulations, and any payment made for the purposes of the corresponding provisions of the previous regulations;

“appointed day” means 5th July 1948;

“approved course of study or training”, in relation to any person, means a course of study or training approved for the purposes of these regulations by the Secretary of State on the written application of that person made before or within three months after the commencement of the course or within such longer period as the Secretary of State may in any particular case allow;

“assistant practitioner” means an employee of a medical practitioner or dental practitioner on the list of an Executive Council or Family Practitioner Committee, being himself a medical practitioner or dental practitioner who in such employment is wholly or mainly engaged in assisting his employer in the actual discharge of his duties as such practitioner, other than an employee of a medical practitioner for whose employment the consent of the Executive Council or Family Practitioner Committee is not required or a trainee practitioner;

“average remuneration” has the meaning assigned to it by regulation 36;

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

“contributing service” means service which is reckonable as contributing service in accordance with regulations 29, 30 or 31 and includes any added years reckonable in accordance with regulation 32;

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

“contributory employee” has the same meaning as in the Act of 1937;

“death gratuity” means a death gratuity payable under regulation 13;

“employing authority” means a Regional Hospital Board or Board of Governors of a teaching hospital, an Executive Council or a joint committee of Executive Councils constituted under section 31(4) of the Act of 1946, a Regional Health Authority, Area Health Authority, Area Health Authority (Teaching), special health authority and any other body constituted under the Act of 1946, the Act of 1973, the Act of 1977 or any other Act relating to health services as the Secretary of State may approve;

“employment in the health service of Northern Ireland or the Isle of Man” means employment in which a person is subject to any regulations for the time being in force under Article 12 of the Superannuation (Northern Ireland) Order 1972(a) or section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald);

“equivalent pension benefits” has the meaning assigned to it by sections 56(1)(a) and 57(1) of the Act of 1965;

“excepted officer” means a person who at the date on which he ceases to be employed or ceases to be an officer without ceasing to be employed is entitled to reckon as service for the purposes of these regulations any period prior to 27th July 1960, being a period during which he was an officer or was subject to any regulations for the time being in force under section 66 of the National Health Service (Scotland) Act 1947(b), or was in employment in the health service of Northern Ireland or the Isle of Man and has not since the said date been engaged in any employment which is reckonable service under the provisions of regulation 21(3):

Provided that for the purpose of this definition no account shall be taken of any service which becomes reckonable by the making of additional contributory payments;

“Family Practitioner Committee” means a Family Practitioner Committee established by an Area Health Authority under section 5(5) of the Act of 1973 or section 10 of the Act of 1977;

“graduated contributions” means contributions payable under section 1(1)(b) of the Act of 1959, section 4 of the Act of 1965 or the corresponding provision of the Northern Ireland Act or the Isle of Man Act;

“guaranteed minimum” shall be construed in accordance with section 35 of the Pensions Act(c);

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

“health service scheme” means a superannuation scheme provided under the Scottish Regulations or under regulations for the time being in force under Article 12 of the Superannuation (Northern Ireland) Order 1972, section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald), or any other superannuation scheme approved for this purpose by the Secretary of State;

“judicially separated” means judicially separated in circumstances in which the husband is not required by the order of any competent court to contribute to the support of his wife, and any such reference and any similar reference to judicial separation includes a reference to separation by a matrimonial order made under the Matrimonial Proceedings (Magistrates’ Courts) Act 1960(d), and having by virtue of section 2 of that Act effect as a decree of judicial separation;

“local Act authority” and “local Act scheme” have the same meanings respectively as in the Act of 1937;

“local Act contributor” has the same meaning as in the Act of 1937, and includes, in respect of any period before 14th July 1953 (being the date of amendment of the definition of “local Act contributor” in the Act of 1937

(a) S.I. 1972/1073 (N.I. 10).

(b) 1947 c. 27. (Section 66 was repealed by s. 29 of and Schedule 8 to the Superannuation Acts 1972 c. 11).

(c) This relevant amending Acts are the Social Security (Miscellaneous Provisions) Act 1977 (c. 5.) and the Social Security Act 1979 (c. 18)).

(d) 1960 c. 48.

by the Act of 1953) a person who, although not in the employment of a local Act authority, was entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme;

“local government service” means employment under a Scheduled body within the meaning of the Local Government Superannuation Regulations 1974(a), a local authority or a local Act authority within the meaning of section 40(1) of the Act of 1937, or the corresponding provisions in force in Scotland;

“mental health officer” means a whole-time officer on the medical or nursing staff of a hospital used wholly or partly for the treatment of persons suffering from mental disorder who devotes the whole or substantially the whole of his time to the treatment or care of such persons, and any medical specialist who devotes substantially the whole of his time to the treatment or care of such persons, and, if the Secretary of State in a particular case so consents, any other officer who, having been a mental health officer, without a break in his service and without having become entitled to any benefit under these regulations, subsequently becomes employed in a part-time capacity in any employment as aforesaid, and such other classes or descriptions of officers employed in such hospitals as aforesaid as the Secretary of State may designate;

“modification provision” means, in relation to any pension scheme, any provision the effect of which is that pensions under that scheme are to be reduced in connection with the operation of the provisions of the Act of 1965, the Northern Ireland Act or the Isle of Man Act, relating to the payment of graduated retirement benefit;

“national service”, in relation to any person, means service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(b), and includes any period immediately following the termination thereof during which the person, with the consent of the authority or person by whom he was employed before undertaking that service, continues in similar service;

“non-participating employment” has the meaning assigned to it by section 56 of the Act of 1965 or the corresponding provision of the Northern Ireland Act or the Isle of Man Act, as the case may be;

“officer” has the meaning assigned to it by regulation 4(1);

“ophthalmic medical practitioner” means a medical practitioner providing general ophthalmic services under the Act of 1977;

“optants scheme” means a superannuation scheme (whether or not embodied in any enactment, rules or regulations) which describes the superannuation benefit to which an officer is entitled by reason of his having elected, pursuant to regulation 44 or regulation 48 or the corresponding provisions of the previous regulations to retain rights corresponding with those which he previously enjoyed under such a scheme, but the expression does not include any of the following superannuation schemes—

Any scheme comprised in the Federated Superannuation System for Universities,

The Edgar Allen Physical Treatment Centre Pension Scheme,
The Federated Superannuation Scheme for Nurses and Hospital Officers,
The German Hospital Pension Scheme,
The Glasgow Royal Samaritan Hospital Pension Scheme,

(a) S.I. 1974/520 as variously amended. (b) 1951 c. 65.

The Holloway Sanatorium Superannuation Scheme,
The Manchester University Service Staffs Superannuation Scheme,
The Old Manor, Salisbury, Pension and Life Assurance Scheme,
The Public Health Laboratory Service Group Pension Scheme,
The Radcliffe Infirmary Old and New Superannuation Schemes,
The Stoke Park Colony Scheme,
The Swansea General and Eye Hospital Pension Scheme,
The Warneford Hospital Pension Scheme, and
The York County Hospital Pension Scheme;

“participating employment”, in relation to any period which is reckonable as service for the purposes of these regulations, means any employment in which a person was required to pay graduated contributions or would have been required to pay such contributions if the amount paid in any income tax week on account of his remuneration, or which would have been paid but for any suspension of remuneration due to leave of absence, exceeded the amount first mentioned in section 4(1) of the Act of 1965, or the corresponding provision of the Northern Ireland Act or the Isle of Man Act, as the case may be;

“payment in lieu of contributions” means a payment in lieu of contributions under the Act of 1959, the Act of 1965, the Northern Ireland Act or the Isle of Man Act;

“pension” means a pension payable under regulation 8;

“pensionable age” has the meaning assigned to it in section 27 of the Social Security Act 1975(a);

“practitioner” means a medical or dental practitioner on the list of an Executive Council or Family Practitioner Committee or an assistant practitioner, but does not include any practitioner who is paid by an employing authority wholly by way of salary;

“quarter” means a period of 3 months ending on the last day of March, June, September or December, as the case may be;

“relevant provisions” in relation to a person to whom regulation 44 applies means the provisions of the enactment or scheme to which his rights and liabilities, as extended by these regulations, correspond;

“remuneration”, except as provided in regulations 2(6), 69, 77 and 79, means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment but does not include payments for overtime or any allowances paid to him to cover the cost of providing office or laboratory accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment:

Provided that where a transferred officer was immediately before the date of his transfer paying superannuation contributions on remuneration calculated otherwise than under these regulations, the Secretary of State may, subject to such conditions as he may impose, agree that such officer’s remuneration for the purposes of these regulations shall be calculated on the basis applicable to him immediately before transfer;

“retiring allowance” means a retiring allowance payable under regulation 8;

“service”, in relation to an officer of an employing authority, means continuous employment by that authority as an officer, after attaining the age of 18 years, and any other employment or any war service or national service which by or in pursuance of these regulations is reckonable as service in relation to his employment as such an officer, but does not include—

- (a) any period of employment as an officer mentioned in regulation 7(2) or in respect of which the Secretary of State has paid the contributions authorised or required by any superannuation scheme referred to in regulation 48; or
- (b) in the case of an officer who has entered employment after having become entitled to superannuation benefits under these or the previous regulations, other than a return of contributions, employment which was taken into account for the purpose of determining whether he was entitled to those benefits or for the purpose of calculating those benefits;

“specialist” means a Consultant, Senior Hospital Medical Officer or Senior Hospital Dental Officer;

“statutory scheme” means a scheme established under section 1 of the Act of 1972 or other arrangements for superannuation maintained in pursuance of regulations made or having effect as if made, under sections 7 and 9 of that Act or section 1 of the Police Pensions Act 1976(a) or a Fireman’s Pension Scheme made under section 26 of the Fire Services Act 1947(b);

“teaching service” has the same meaning as in the Superannuation (Teaching and National Health Service) Interchange Rules 1967(c);

“trainee practitioner” means a person who is being trained in general practice as a trainee general practitioner under arrangements made by the Secretary of State;

“transferred officer” means, subject to regulation 2(2) and (3), a person who became an officer on transfer under the Act of 1946 to the employment of an employing authority, or who became an officer in consequence of the acquisition of premises under section 58 of the Act of 1946;

“war service” means war service within the meaning of the Local Government Staffs (War Service) Act 1939(d), or war service or a period of war service within the meaning of the Teachers Superannuation (War Service) Act 1939(e), or service in any of the naval, military or air forces of the Crown, or employment for war purposes, within the meaning of the Superannuation Schemes (War Service) Act 1940(f);

“widow’s pension” means a widow’s pension payable under regulation 14;

“widower’s pension” means a widower’s pension payable under regulation 18.

PART II

PROVISIONS RELATING TO OFFICERS EMPLOYED BY EMPLOYING AUTHORITIES AND OTHER OFFICERS ENGAGED IN HEALTH SERVICES OTHERWISE THAN IN THE EMPLOYMENT OF LOCAL AUTHORITIES

Application

4.—(1) Subject to regulations 5 and 8(3) this Part of these regulations shall apply to the following officers of an employing authority who have attained the age of 18 years—

(a) 1976 c. 35.

(b) 1947 c. 41; section 26 has been variously amended.

(c) S.I. 1967/949.

(e) 1939 c. 95.

(d) 1939 c. 94.

(f) 1940 c. 26.

- (a) every whole-time officer whose duties are wholly or mainly administrative, professional or clerical;
- (b) any other whole-time officer who entered the employment of an employing authority within 12 months of leaving a previous employment referred to in regulation 21(1) or who has given notice in accordance with regulation 21(3)(a);
- (c) any other whole-time officer who was transferred under the Act of 1946 or entered employment of an employing authority in consequence of the acquisition of premises under section 58 of that Act, and immediately before either of those events had reasonable expectations of superannuation benefits on retirement and since either of those events has remained an officer without a continuous break of 12 months or more other than a period to which regulation 22(2) applies;
- (d) any other whole-time officer who at any time since attaining the age of 18 years has been in the employment of that or any other employing authority as such whole-time officer for a continuous period of 2 years or for an aggregate period of 2 years without having had before the expiration of that aggregate period a break of more than one month at any one time;
- (e) any part-time officer who is employed as a medical officer or dental officer;
- (f) any other part-time officer who satisfies the requirements of Schedule 6;
- (g) any officer paid by an employing authority wholly by way of salary who would be a practitioner if he were not so paid; and
- (h) any trainee practitioner, who for the purposes of this Part of these regulations shall be treated as being a whole-time officer in the employment of an Area Health Authority:

Provided that—

- (i) for the purposes of sub-paragraph (d) of this paragraph, account shall be taken of the employment of a transferred officer which he held at the time of transfer, and of any other employment before transfer in which, had he continued to hold it, he would have been transferred as if such employment had been employment under an employing authority;
 - (ii) where, on the termination of the employment of an officer of an employing authority, a payment is made in lieu of leave not taken by the officer, his employment as an officer in the employment of that authority shall for the purposes of these regulations be deemed to continue for a period equal to the period of leave in respect of which the payment is made, and such payment shall be deemed to be his remuneration for that period;
 - (iii) for the purposes of these regulations, a whole-time officer of an employing authority, other than a practitioner, shall not in addition be a part-time officer by virtue of sub-paragraph (e) or (f) of this paragraph, and shall not be a whole time officer in respect of any other concurrent whole-time employment;
 - (iv) in the case of a person who became a transferred officer on or after 1st September 1973 sub-paragraph (e) of this paragraph shall not apply to the employment in which he was transferred unless he makes an election in writing to his employing authority that the said sub-paragraph shall apply to him:
- and the term "officer" shall be construed accordingly.

(2) Notwithstanding paragraph (1), this Part of these regulations shall not apply to any person in contributory service under the Teachers Acts in any hospital vested in the Secretary of State.

(3) Notwithstanding paragraphs (1) and (2), this Part of these regulations shall not apply to any officer of an employing authority to whom there became or becomes payable a pension under these or the previous regulations or an annual sum under regulations made under section 44 of the Act of 1973, if that pension or sum is not liable to be reduced or suspended in consequence of his employment under that authority:

Provided that this paragraph shall not apply to a transferred officer who immediately before transfer was in receipt of a pension payable under these or the previous regulations.

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

Persons holding honorary appointments

5.—(1) Subject to the provisions of paragraph (2), a person who holds an appointment which by the terms thereof is declared to be an honorary appointment, whether or not a distinction award is payable, shall in respect of that appointment be deemed not to be an officer to whom this Part of these regulations applies, and no account shall be taken of that appointment in determining whether in any other employment he is an officer to whom this Part of these regulations applies except that any period during which a person has held such an honorary appointment shall be disregarded in determining whether:—

- (a) for the purposes of regulation 21 he has entered employment as an officer within any such period as is mentioned in that regulation;
- (b) for the purposes of regulations 44(1), 48, 49(2) and (3), 56(3)(a) and (b), (8), (9) and (11) he has had any such break in employment as is referred to therein:

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).

(2) Paragraph (1) shall not apply to any person who holds an honorary appointment if at the same time he holds any other employment in which he is entitled to participate in superannuation benefits provided under these regulations.

Participation in superannuation benefits

6. Every officer shall be entitled to participate in the superannuation benefits provided by these regulations, subject to and in accordance with the terms and conditions thereof.

Contributions

7.—(1) For the purpose of defraying the cost of the superannuation benefits provided by these regulations, there shall, subject to the provisions of these regulations, be paid in respect of every officer, not being an officer specified in paragraph (2) of this regulation, in relation to his employment by an employing authority, the following contributions, namely—

- (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) The reference in paragraph (1), in the definition of "service" contained in regulation 3 and in regulation 36(1) to an officer mentioned in this paragraph is a reference to an officer who—

- (a) being a mental health officer or a female who is a nurse, physiotherapist, midwife or health visitor, has attained the age of 65 years; or
- (b) has completed 45 years' contributing service or 45 years' contributing and non-contributing service, reckoning the non-contributing service at half its length, and has attained—
 - (i) in the case of a mental health officer or a female who is a nurse, physiotherapist, midwife or health visitor, an age of not less than 60 years; or
 - (ii) in any other case an age of not less than 65 years.

(3) An officer who is on leave of absence from duty with reduced remuneration or without remuneration shall make contributions under this regulation calculated by reference to the remuneration on which he was making contributions immediately before he went on leave of absence, and, notwithstanding the provisions of any enactment or scheme, contributions by and in respect of him shall not be made during his absence, except in accordance with the provisions of this paragraph, for the purpose of his participation in superannuation benefits:

Provided that where the absence from duty is by reason of illness or injury the provisions of this paragraph shall not apply unless the officer's remuneration is reduced solely by reason of his having become entitled to benefit under the Social Security Act 1975.

(4) The employing authority may deduct from the remuneration payable to an officer the contributions payable by him and, in so far as deductions are not so made, they may recover any such contributions as a simple contract debt in any court of competent jurisdiction.

(5) The employing authority's contributions, and the officer's contributions after they have been obtained from him by the employing authority, shall be paid by the authority to the Secretary of State.

(6) Subject to the provisions of regulation 70 but notwithstanding any other provisions of these regulations, a person who after leaving employment under an employing authority became engaged in national service shall, as a condition of becoming entitled to have reckoned any of that service for the purposes of these regulations make the like contributions under this regulation (if any) as he would have been liable to make if, during the period of his national service, he had continued to follow that employment and to have been entitled to the remuneration thereof, and the employing authority shall make the like contributions in respect of him as they would have been liable to make if he had so continued to follow his employment as aforesaid.

Officer's pension and retiring allowance

8.—(1) On ceasing to be an officer, a person shall be entitled to receive from the Secretary of State—

- (a) an annual pension if—
 - (i) he has completed 5 years' service and is permanently incapable of discharging efficiently the duties of his employment by reason of physical or mental infirmity; or
 - (ii) he has attained the age of 60 years; or
 - (iii) there has been repaid to the Secretary of State a transfer payment which was made under regulation 80(1) or the corresponding provision of the previous regulations to the superannuation scheme of the Commission of the European Communities in respect of that person; or
 - (iv) he has completed 5 years' service or he is a person to whom regulation 37(4) or regulation 37(5)(b) applies, and in any such case he has not, within 12 months and without first having become entitled to receive payment of such annual pension, again become an officer; or
 - (v) he has completed 5 years' service and the conditions prescribed in paragraph (4) are applicable in his case; and
- (b) a lump sum retiring allowance if he satisfies the requirements of sub-paragraph (a) of this paragraph:

Provided that—

- (i) a person who satisfies the requirements of sub-paragraphs (a)(iii), (iv) or (v) of this paragraph shall not become entitled to receive payment of such benefit until he also satisfies the requirements of paragraph (2);
 - (ii) for the purposes of this regulation, an officer who satisfies the requirements of sub-paragraph (a)(v) of this paragraph shall be deemed to have ceased to be an officer on the date he suffers a reduction in remuneration in the circumstances mentioned in paragraph (4); and
 - (iii) for the purpose of determining entitlement to a pension under regulation 8(1)(a)(i) or (ii) a person may be treated as having ceased to be an officer in respect of one of his employments which has terminated although he continues to be an officer in respect of one other or more employments which were concurrently held with that employment.
- (2) A person who satisfies the requirements of sub-paragraphs (a)(iii), (iv) or (v) of paragraph (1) shall satisfy the requirements of this paragraph—
- (a) if, not then being an officer, he attains the age of 60 years or, where the Secretary of State certifies that the officer's retirement is by reason of redundancy, the earliest age at which the officer would have been entitled to receive a pension under paragraph (1)(a)(ii); or
 - (b) if he is an officer when he attains the age of 60 years, on ceasing thereafter to be an officer; or

- (c) if he satisfies the Secretary of State that he is permanently incapable by reason of physical or mental infirmity of engaging in regular employment; or
- (d) on subsequently becoming entitled to receive some other benefit under paragraph (1):

Provided that—

- (i) subject to proviso (iii) below, service in respect of which contributions have been returned shall not be reckonable in the calculation of a pension or retiring allowance;
- (ii) in the case of a person to whom regulation 44 applies, for the reference in sub-paragraphs (a) and (b) of this paragraph to the age of 60 years there shall be substituted a reference to the age of 60 years 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; and
- (iii) where a person has become entitled to benefits by virtue of paragraph (1)(a)(iv) in respect of service which includes a period of contributing service to which regulation 34(1)(a) applies, then on becoming entitled to receive payment of any part of those benefits he shall also become entitled to receive payment of the benefits in respect of such period of contributing service.

(3) In regulation 9 (except in paragraph (6)(a)) and, so far as may be necessary for the purpose of calculating a benefit payable under these regulations to or in respect of a person to whom paragraph (2) applies, elsewhere in these regulations, the expression “officer” shall include a person to whom the said paragraph (2) applies.

- (4) For the purposes of paragraph (1)(a)(v) the prescribed conditions are—
- (a) that the officer suffers a reduction in remuneration either on being transferred to other employment under any employing authority, or on taking up such other employment in circumstances that the Secretary of State has approved, or may approve, for the purposes of this paragraph; or
 - (b) that following a change in the nature of the duties performed the officer suffers a reduction in remuneration which is not attributable to his own act while continuing in the same employment,

and that he gives notice in writing to the employing authority within one month of the reduction, or such longer period as the Secretary of State may in any particular case allow, that he wishes to be entitled to benefits under paragraph (1)(a)(v).

(5) Notwithstanding anything contained in regulation 44 an officer to whom that regulation applies or a mental health officer on the date upon which he ceases to be such an officer who has completed 5 years' service or is a person to whom regulation 37(4) applies and has not, within 12 months and without having become entitled to receive such benefits, again become such an officer, shall be entitled to receive either—

- (a) on satisfying the requirements of paragraph (2), the benefits to which he is entitled in respect of the service reckonable by him immediately before he so ceased to be such an officer, or

- (b) on attaining the age of 65 years in the case of a man or 60 years in the case of a woman or, in either case, if an officer on attaining that age, on ceasing thereafter to be an officer, the benefits mentioned in paragraph 12(2) of schedule 10 calculated as if the employment had ceased on attaining that age:

Provided that in the case of an officer subject to superannuation provisions corresponding with those of a mental health officer, the provisions of regulation 9(4) shall apply to the calculation of a benefit under this sub-paragraph as though his employment were employment as a mental health officer.

- (6) Until he satisfies the requirements of paragraph (2), a person who satisfies the requirements of paragraph (1)(a)(iii), (iv) or (v) or paragraph (5) shall be regarded for the purposes of regulations 4(3) and 41 as being in receipt of a pension under these regulations which is liable to be reduced or suspended in consequence of re-employment.

Rates of pension and retiring allowance

9.—(1) The pension to be paid to a person whose service does not include service as a practitioner shall, subject to the provisions of these regulations, be a sum equal to 1/80th of his average remuneration in respect of each year of his contributing service.

(2) The pension to be paid to a person whose service includes service as a practitioner shall, subject to the provisions of these regulations,

(a) in respect of the service otherwise than as a practitioner, be at the rate specified in paragraph (1) and

(b) in respect of the service as a practitioner, be at the rate specified in regulation 71(2).

(3) Subject to the provisions of these regulations, the retiring allowance to be paid to a person shall be a sum equal to three times the annual amount of his pension as calculated in accordance with this regulation or regulation 71, as the case may be:

Provided that—

(a) where a person—

(i) is a married man in respect of whose service a widow's pension may become payable under these regulations, or

(ii) became a widower or was divorced or judicially separated from his wife on or after 25th March 1972 in the circumstances specified in paragraph (6), or

(iii) has made a nomination under regulation 18,

the amount of the retiring allowance shall be a sum equal to the aggregate of the following amounts, namely, the annual amount of his pension as calculated under this regulation or regulation 71 as the case may be, in respect of his contributing service before 25th March 1972 (other than service in respect of which payment under regulation 27(1) has been completed or deemed to have been completed) and three times the annual amount of his pension as so calculated in respect of the remainder of his contributing service;

(b) where proviso (a) does not apply to an officer and he became a widower or was divorced or judicially separated from his wife before 25th March 1972 in the circumstances specified in paragraph (6), the amount of the retiring allowance shall be a sum equal to the aggregate of the following amounts, namely, the annual amount of his pension as calculated under this regulation or regulation 71 as the case may be, in respect of his contributing service up to and including the date of his wife's death or the divorce or judicial separation (other than service in respect of which payment under regulation 27(1) has been completed or deemed to have been completed) and an amount equal to three times the annual amount of his pension as so calculated in respect of the remainder of his contributing service.

(4) Notwithstanding the foregoing provisions of this regulation, the pension and retiring allowance of a mental health officer who became entitled to benefits under regulation 8(1)(a)(iii), (iv) or (v) or regulation 8(5)(a) shall not be less than the pension and retiring allowance calculated according to the formula

$\frac{A}{B} \times C$ where—

“A” is the period of employment reckonable by him as contributing service at the date of his ceasing to be an officer;

“B” is the period of employment that would have been reckonable by him as service had he continued in his employment as a mental health officer until the age of 55 years, together with any period in respect of which he receives a return of contributions; and

“C” is the pension or retiring allowance to which he would be entitled, apart from this paragraph, had his contributing service been that which would have been reckonable had he continued in his employment as a mental health officer until the age of 55 years, together with any contributing service in respect of which he receives a return of contributions and including any service which he is able to reckon by virtue of regulation 24(7) as though that service were contributing service.

(5) Where the retiring allowance paid to a married male officer has been calculated on the basis that a widow's pension may become payable under these regulations in respect of his service and, by reason of the operation of proviso (iii) to regulation 14(1), his wife will not, on his death, become entitled to a widow's pension, there shall be paid to the officer a sum equal to two-thirds of the difference between the amount of the retiring allowance paid to him and the amount of the retiring allowance which would have been paid to him had he not been a person in respect of whose service a widow's pension might become payable.

(6) The circumstances referred to in provisos (a)(ii) and (b) to paragraph (3) are that he is an officer (other than an officer who married in such circumstances that his wife could not become entitled to a widow's pension by reason of proviso (ii) or proviso (iv) to regulation 14(1) or the corresponding provisions of the previous regulations) whose wife died or was divorced or judicially separated from him—

(a) on or after the date on which he first became an officer within the meaning of these regulations or the previous regulations; or

(b) while he was subject to a superannuation scheme the service reckonable in which is reckonable by him for the purposes of these regulations and which provided a widow's pension as one of its benefits; or

- (c) during the period between his leaving employment in which he was subject to any such scheme as is mentioned in the last preceding sub-paragraph and his entry into employment in which he became an officer as aforesaid.

Additional benefits for certain officers

10.—(1) Any benefit under these regulations payable to or in respect of an officer whose service includes service as a medical or dental officer during which he was entitled under his terms of service to fees in respect of domiciliary consultations, shall be supplemented by such additional payment (if any) as may be ascertained in accordance with paragraph (2).

(2) The supplementary payment referred to in paragraph (1) shall be calculated in accordance with the method prescribed by these regulations for the benefit which it supplements as if such fees had been his remuneration and any service in respect of employment to which regulation 35(7) applies and any service reckonable by virtue of regulation 25 were disregarded:

Provided that—

- (i) where such benefit is calculated by reference to average remuneration, such fees shall be aggregated with his remuneration in order to determine, for the purposes of proviso (a) to regulation 36(1), whether his remuneration was higher in any year preceding the final year;
- (ii) proviso (f) to regulation 36(1) shall not apply to such fees.

Additional benefits for certain transferred officers

11. Where an officer was transferred to the employment of an employing authority under the Act of 1973—

- (a) unless he is a person to whom sub-paragraph (b) applies, there shall be payable to or in respect of him on or after his ceasing to be an officer—
 - (i) an annual amount equal to any additional superannuation benefits which would have been granted by the local authority if he had remained in their employment until the date on which he ceased to be an officer, and
 - (ii) such payments, supplementary to any superannuation benefits, as would have been made by that local authority if the circumstances in which he ceased to be an officer had occurred immediately before the date on which he was transferred under the Act of 1973;
- (b) if he is a person to whom the provisions of regulation 48(4) apply, there shall be payable to or in respect of him on or after his ceasing to be an officer such payments, supplementary to any superannuation benefits which may become payable, as would have been made by that local authority if the officer had remained in their employment until the date on which he ceased to be an officer.

Allocation of part of pension to spouse or dependant

12.—(1) An officer who becomes entitled to a pension may thereupon notify his desire, subject to and in accordance with the provisions of Schedule 1, to surrender part of the pension in consideration of the grant of a pension to the spouse or any dependant of the officer on his death of such value as, according

to tables prepared from time to time by the Government Actuary, is actuarially equivalent at the date on which he ceased to be an officer to the value of that part of the pension which is surrendered.

(2) If an officer not having attained—

- (a) in the case of a mental health officer, or of a female who is a nurse, physiotherapist, midwife or health visitor, the age of 60 years; or
- (b) in any other case, the age of 65 years,

would, if he ceased to be an officer, be entitled to a pension, and he has completed 40 years' contributing service or a total of 40 years' contributing service and non-contributing service, the non-contributing service being reckoned at half its length, or if an officer, having attained the appropriate age, would, if he ceased to be an officer, be entitled to a pension, he may, at any time before ceasing to be an officer, notify his desire, subject to and in accordance with the provisions of Schedule 1, to surrender part of the pension to which he may become entitled, in consideration of the grant of a pension to his spouse or any dependant of the person aforesaid on his death, of such value as, according to tables to be prepared from time to time by the Government Actuary, will be actuarially equivalent at the date on which he ceases to be an officer, to the value of that part of the pension which is surrendered; and if he dies before having become entitled to the pension but after having so notified his desire to surrender a part of the pension, he shall be deemed to have become entitled to the pension to which he would have become entitled had he retired on the day of his death.

(3) A person who has become entitled to benefits under regulation 8(1)(a)(iii) (iv) or (v) shall not be treated for the purposes of this regulation as having become entitled to those benefits until he becomes entitled to receive payment thereof.

Death gratuity

13.—(1) In the event of the death of—

- (a) an officer;
- (b) a person who had ceased to be an officer within 12 months before his death and had not received a return of contributions or become entitled to any other benefit, including a transfer payment, under these regulations;
- (c) a person who had become entitled to a pension under regulation 8(1)(a)(iv) but had not become entitled to receive payment of that pension;
- (d) a person in receipt of a pension under these regulations,

his widow if they were not judicially separated at the time of his death, or otherwise his personal representative, shall be entitled to receive from the Secretary of State a death gratuity calculated, subject to paragraph (6), in accordance with paragraph (2).

(2) Subject to paragraph (3), the amount of the death gratuity shall be—

- (a) in respect of the death of an officer, a sum equal to whichever is the greatest of the following—
 - (i) his average remuneration, or

- (ii) an amount equal to three times the annual amount of the pension which would have been payable to the officer had he become entitled to a pension under regulation 8(1)(a)(i) on the day of his death (any reduction under regulation 56 being disregarded), or
 - (iii) the amount of his contributions, together with compound interest thereon;
- (b) in respect of the death of a person after ceasing to be an officer as mentioned in paragraph (1)(b) or (c), as the case may be, a sum equal to whichever is the greater of the following—
- (i) an amount equal to three times the annual amount of a pension as calculated under regulations 9 or 71 based on his contributing service reckonable on last ceasing to be an officer, or
 - (ii) the amount of his contributions, together with compound interest thereon,

except that if a widow's pension becomes payable under these regulations, the death gratuity shall be a sum equal to a retiring allowance calculated under the provisions of proviso (a) to regulation 9(3) and regulation 9(4) based on his contributing service reckonable on last ceasing to be an officer;

- (c) in respect of the death of a person in receipt of a pension as mentioned in paragraph (1)(d), a sum equal to whichever is the greatest of the following—
- (i) an amount equal to three times the annual amount of his pension under these regulations (any reduction under regulation 56 being disregarded) less a sum equal to the aggregate amount of pension and retiring allowance paid to him, or
 - (ii) the amount of his contributions, together with compound interest thereon, less a sum equal to the aggregate amount of pension and retiring allowance paid to him, or
 - (iii) whichever is the lesser of the following—
 - (a) his average remuneration, less a sum equal to the aggregate amount of pension and retiring allowance paid to him, or
 - (b) an amount equal to five times the annual amount of his pension under these regulations (any reduction under regulation 56 being disregarded) less a sum equal to the aggregate amount of pension paid to him:

Provided that where a person surrendered part of his pension, the amount of the death gratuity specified in sub-paragraph (c) of this paragraph shall be reduced by any sum which would have been paid to him but for the surrender.

(3) Subject to the provisions of regulation 27(4), where a widow's pension is payable under these regulations—

- (a) the amount of the death gratuity specified in paragraph (2)(a) shall be reduced by an amount equal to twice the annual amount of the pension which would have been payable to the officer in respect of his contributing service before 25th March 1972 had he become entitled to a pension under these regulations on the day of his death (any reduction under regulation 56 being disregarded);

(b) the amount of the death gratuity specified in paragraph (2)(c) (except sub-paragraph (iii)(b) thereof) shall be reduced by an amount equal to twice the annual amount of the person's pension in respect of his contributing service before 25th March 1972 (any reduction under regulation 56 being disregarded).

(4) Where a widower's pension is payable under these regulations, the amount of the death gratuity payable under this regulation shall be calculated as if any reference in this regulation to a widow or a widow's pension included a reference to a widower or a widower's pension.

(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 71(2).

(6) In the case of the death of a person who became entitled to a pension on or before 25th March 1972 the death gratuity shall be calculated as if these regulations had not been made.

Widow's pension

14.—(1) The widow of a person who at the date of his death was—

(a) entitled to a pension under these regulations, or the previous regulations; or

(b) 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)—

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

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

(iii) if her late 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 the original 1961 regulations 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 payable under these regulations (except paragraph (4)) or the previous regulations if her husband had died immediately before ceasing to be an officer.

(3) Subject to the provisions of paragraph (4), 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 56, 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 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 on or 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 42(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 respect 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 respect 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 34(3) or 75(2) shall be disregarded:

- (vi) during the period that a pension of limited duration is payable under regulation 16 a widow's pension shall not be payable at any of the rates specified in this paragraph.
- (4) The widow's pension payable for the first three months following the date of the death of her late husband shall be, if, at the date of his death—
- (a) paragraph (1)(a) applied and he was an officer on or after 1st October 1972, at the rate of his pension payable on that date without having regard to any reduction or suspension by reason of the operation of regulation 40;
- (b) paragraph (1)(a) applied and he was an officer, the aggregate of the rate of his remuneration and the rate of his pension payable on that date having regard to any reduction or suspension by reason of the operation of regulation 40;
- (c) paragraph (1)(b) applied, and he was not a person to whom paragraph (1)(a) also applied, at the rate of his remuneration on that date:

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 44 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 70(2);
- (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 16.
- (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 15 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 that pension had been calculated by reference to the pension of a person who was an officer on or after 25th March 1972 and if he is satisfied that she would otherwise suffer hardship; 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) Where 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, and on the subsequent 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.

Child's allowance

15.—(1) Subject to and in accordance with Schedule 5 to these regulations, an allowance (in these regulations referred to as "a child's allowance") shall be payable to or for the benefit of any child to whom this regulation applies.

(2) This regulation applies to any child who—

(a) is a child of a person who dies in the circumstances mentioned in regulation 13(1)(a) or (b), or who dies having become entitled to a pension after 19th July 1974, having in either case completed not less than 5 years' service, and

(b) was dependent on that person, and either—

(i) has not attained the age of 16 years or, if 16 years of age or over is, to the Secretary of State's satisfaction, continuing to receive full-time instruction at an educational establishment or undergoing full-time training for a trade, profession or vocation, or is in a break in such instruction or training, or

(ii) was at the time of the death of that person and has at all times since then been incapable by reason of permanent ill-health or infirmity of mind or body of earning his own living:

Provided that the reference in sub-paragraph (a) of this paragraph to 5 years shall be a reference to 10 years in the case of a child of a person who dies in the circumstances mentioned in regulation 13(1)(a) or (b) and who was not on or after 1st October 1972 either an officer or a person to whom regulation 22(1) applied.

(3) For the purposes of this regulation except as provided in paragraph (4)—

(a) "child" includes—

(i) a step-child, adopted child or illegitimate child, a child who is a brother or sister or the child of a brother or sister of the person mentioned in paragraph (2)(a) or of his spouse and the child of a child of that person, but does not include any child adopted, or who became a step-child, after the date when that person last ceased to be an officer, or any child born more than a year after that date, and

(ii) in any particular case if the Secretary of State so agrees, a child whom that person immediately before last ceasing to be an officer had intended to adopt or who had then been dependent on that person for at least 2 years or half the child's life, whichever is the lesser;

(b) "eligible child" means a child to whom this regulation applies and "parent" shall be construed accordingly; and

(c) "brother" includes half-brother and step-brother and "sister" includes half-sister and step-sister.

(4) This regulation shall also apply in the case of the death of a person who became entitled to receive a pension after 15th December 1966 and before 20th July 1974, and where it so applies the following paragraph shall be substituted for paragraph (3)—

“(3) For the purposes of this regulation—

- (a) “child” includes a step-child, adopted child or illegitimate child but does not include any child adopted, or who became a step-child, after the date when the parent in respect of whose death the allowance is payable last ceased to be an officer, or any child born more than a year after that date; and
- (b) “eligible child” means a child to whom this regulation applies and “parent” shall be construed accordingly.”.

Pensions of limited duration for widows and dependent children

16.—(1) The provisions of this regulation shall apply where an officer dies before he has completed 5 years' service.

(2) A pension of limited duration (referred to in this regulation and regulations 17 and 18 as a “limited pension”) shall be payable immediately following the officer's death to his widow at the rate of his remuneration at the date of his death for the period mentioned in paragraph (4):

Provided that—

- (i) a limited pension shall not be payable to the widow if at the date of her late husband's death they were judicially separated or if she is not entitled to a widow's pension by virtue of the provisions of regulation 14(6);
- (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 date 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 the date of 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 70(2).

(3) For the purposes of this regulation—

- (a) “dependent child” means a child of the officer who, at the date of the officer's death—
 - (i) was dependent on the officer, and either
 - (ii) had not attained the age of 16 years, or if he had attained that age was, to the satisfaction of the Secretary of State receiving full-time instruction at an educational establishment or undergoing full-time training for a trade, profession or vocation, or
 - (iii) was incapable by reason of permanent ill-health or infirmity of mind or body of earning his own living;
- (b) “dependent child” includes—
 - (i) step-child, adopted child or illegitimate child, a child who is a brother or sister or the child of a brother or sister of the officer or of his spouse and a child of a child of the officer,

- (ii) in any particular case if the Secretary of State so agrees, a child whom the officer had intended to adopt or who had been dependent on the officer for at least 2 years or half the child's life, whichever is the lesser, and
 - (iii) a child born during the period for which a limited pension would have been payable if that child had been living at the time of the officer's death, and in such case that limited pension shall be payable as if the child had been alive during the period between the officer's death and the child's birth;
- (c) "brother" includes half-brother and step-brother and "sister" includes half-sister and step-sister.
- (4) The period for which a limited pension is payable shall be—
- (a) 3 months if there is no dependent child dependent upon the officer's widow;
 - (b) $4\frac{1}{2}$ months if there is one dependent child dependent upon the officer's widow; or
 - (c) 6 months if there are 2 or more dependent children dependent upon the officer's widow.
- (5) The provisions of paragraph 6 of Schedule 5 shall apply in respect of a limited pension payable under paragraph (6) or (7).
- (6) Subject to the provisions of regulation 17(4), in addition to the limited pension payable under paragraph (4) there shall also be payable to or for the benefit of any dependent child who is not dependent upon the officer's widow, a limited pension at the rate specified in paragraph (2) and that pension shall be payable as follows—
- (a) where the circumstances of paragraph (4)(a) apply, for $1\frac{1}{2}$ months for one such dependent child or for 3 months for 2 or more such dependent children;
 - (b) where the circumstances of paragraph (4)(b) apply, for $1\frac{1}{2}$ months for one or more such dependent children.
- (7) Subject to the provisions of regulation 17(4), where a widow with a dependent child dependent upon her dies or remarries before her limited pension ceases to be payable, a limited pension at the rate specified in paragraph (2) shall be paid to or for the benefit of that child for the remainder (if any) of the period mentioned in regulation 17(1).

Pensions of limited duration for dependent children where there is no widow

17.—(1) Where an officer dies before completing 5 years' service and a limited pension is not payable under regulation 16 or regulation 18, a limited pension shall be paid to or for the benefit of any dependent child as defined in regulation 16(3) at the rate specified in regulation 16(2)—

- (a) for one dependent child, for a period of 2 months; or
- (b) for 2 or more dependent children, for a period of 4 months.

(2) The provisions of paragraph 6 of Schedule 5 shall apply in respect of a limited pension payable under paragraph (1).

(3) A limited pension shall not be payable under paragraph (1) in respect of the death of more than one parent but shall be payable in respect of the death of the parent who was in receipt of the higher remuneration.

(4) Where, in the event of the death of both parents, any two of the following payments fall to be made, there shall be made only the payment which, in the opinion of the Secretary of State, provides the most favourable benefit of—

- (a) a limited pension under paragraph (1);
- (b) a limited pension under regulation 16(6) or (7);
- (c) a child's allowance.

Widower's pension

18. A female officer whose husband is permanently incapable by reason of physical or mental infirmity of earning his own living may, by a notice in writing submitted to the Secretary of State after 27th August 1975, nominate her husband to receive benefits under this regulation on the grounds that he is wholly or mainly dependent on her and if the Secretary of State is satisfied that the officer's husband is so dependent on her he shall accept the nomination so that on the death of the officer the nominee shall be entitled to receive from the Secretary of State an annual widower's pension in accordance with the provisions of regulation 14 or a limited pension in accordance with the provisions of regulation 16, as the case may be.

Power to compound small benefits

19.—(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.

(3) A person who has become entitled to benefits under regulation 8(1)(a)(iii), (iv) or (v) shall not be treated for the purposes of this regulation as having become entitled to those benefits until he becomes entitled to receive payment thereof.

Guaranteed minimum pension under the Pensions Act

20.—(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 continued 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 40, 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 40 operates to reduce a pension;
- (b) where the Secretary of State has made a direction under regulation 62 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 19 or regulation 80.

Reckoning as service of previous periods of employment

21.—(1) Subject to paragraph (6), where a person enters employment as an officer after leaving a previous employment in which he was an officer or in which he was subject to a health service scheme, the service which was reckonable when he ceased to be employed in that previous employment shall be reckonable in relation to the employment in which he is an officer, if—

- (a) he became an officer within 12 months after leaving that previous employment, and
- (b) within 6 months after entering the employment of an employing authority he repays to that authority an amount equal to any sum paid to him by way of return of contributions on or after his ceasing to hold his previous employment as an officer, together with an amount equal to any income tax which was deducted from his contributions in respect of such payment (not being a deduction under regulation 37(3)), or
- (c) in his previous employment he was subject to a health service scheme—
 - (i) within 6 months after entering employment as an officer he gives written notice to the Secretary of State that he wishes the service which was reckonable on termination of his previous employment to be reckonable as service in relation to his employment as an officer, and
 - (ii) the Secretary of State has received a transfer payment in respect of that previous service.

(2) Subject to the provisions of this regulation, and notwithstanding any other provision of these regulations, these regulations shall apply to a person who has become an employee of an employing authority after leaving employment in which he was or might have become subject to a health service scheme, as though that employment were employment under an employing authority.

(3) Subject to paragraphs (4) and (6), where a person enters employment as an officer after leaving employment in which he was not an officer and in which he was subject to a superannuation scheme other than a health service scheme, any service which was reckonable in that superannuation scheme for the purpose of determining whether that person was entitled to receive a superannuation benefit shall be reckonable at its full length for the purpose of determining whether any benefit is payable to or in respect of him under these regulations, if—

- (a) within 6 months after entering employment as an officer he gives written notice to the Secretary of State that he wishes the Secretary of State to request a transfer payment in respect of him from the body administering such superannuation scheme, and
- (b) that body makes such a transfer payment to the Secretary of State.

(4) The service mentioned in paragraph (3) shall be reckonable for all purposes of these regulations, other than for the purpose mentioned in that paragraph, as a period of contributing service calculated in accordance with Part II of Schedule 2, 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 purpose of these regulations contributing service reckonable under this paragraph shall not be regarded as service before 25th March 1972.

(5) 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.

(6) The Secretary of State may—

- (a) waive payment of any transfer payment payable under paragraph (1) or paragraph (3) and if he does so such payment shall be deemed to have been made for the purposes of this regulation, regulation 66 and Schedule 2;
- (b) in any particular case extend any time limit mentioned in this regulation;
- (c) decline to accept a transfer payment under paragraph (3) 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) 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.

Intervals in service due to illness or injury

22.—(1) Notwithstanding anything in these regulations, an officer whose remuneration is suspended owing to leave of absence from duty on account of illness or injury shall be deemed to have ceased his employment as an officer from the date on which his remuneration was so suspended except for the purposes of regulations 8, 12(1), 13(1)(a) and (b), 14(1)(b), 14(3)(a), 15, 16, 17, 18, 48, 49 and 50.

(2) Where a person ceases or is deemed by virtue of the last foregoing paragraph to have ceased his employment as an officer on account of illness or injury, no account shall be taken of any period during which he is incapable of resuming employment as an officer or a period of 2 years, whichever is the less, in determining whether—

- (a) he has entered employment as an officer within any such period as is referred to in regulation 21 or
- (b) for the purposes of regulations 33, 44(1), 48, 49(2) and (3), 56(3)(a) and (b) and 56(8), (9) and (11), he has had any such break in employment as is referred to therein:

Provided that—

- (i) the said period of 2 years may be extended to such longer period as the Secretary of State may in any particular case allow;
 - (ii) in the case of a person mentioned in paragraph (1) who ceases to be employed during a period in which his remuneration is suspended and he is incapable of resuming his employment, the period during which his remuneration is suspended and any further consecutive period during which he is incapable of resuming employment as an officer shall be aggregated for the purposes of this paragraph;
 - (iii) sub-paragraph (a) of this paragraph shall not apply to any person who is entitled to benefits under regulation 8(1)(a)(iv); and
- (3) Paragraph (1) shall not apply to an officer who for the time being enjoys under regulation 44 rights corresponding with those which he would have enjoyed if he had remained subject to the superannuation enactment or scheme previously applicable in his case.

Reckoning of service in certain continuing employments

23.—(1) There shall be reckonable for the purpose of calculating the amount of a benefit payable to or in respect of an officer under these regulations, in addition to any period of employment otherwise reckonable under these regulations as service in relation to the employment he has ceased to hold (in this regulation referred to as his “main employment”), any other period of employment which has been reckonable as service under these regulations or the previous regulations and—

- (a) which has terminated before or at the same time as the termination of his main employment;
- (b) is service in respect of which no benefit under these regulations or transfer payment has been paid;
- (c) is not service in respect of which contributions have been returned to the officer and have not been repaid by him; and
- (d) is not service which has been followed by any continuous period of 12 months or longer during no part of which the person was an officer.

(2) Where on giving up his main employment an officer continues in some other employment, any period of service which apart from this paragraph is reckonable in relation to one only of those employments shall be reckonable also in relation to the other employment 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.

Reckoning of previous employment as qualifying service in certain cases

24.—(1) In the case of a person who was transferred under the Act of 1946 to the employment of an employing authority or who entered the employment of an employing authority in consequence of the acquisition of premises by the Secretary of State under section 58 of the Act of 1946, having in the latter case been employed solely or mainly at or for the purposes of the said premises immediately prior to their acquisition, and who thereupon became an officer of that employing authority, there shall be reckonable as service in relation to any such employment as is mentioned in the next succeeding paragraph of this regulation, 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 benefit to which he may become entitled, all periods of employment, not otherwise reckonable as service, after he attained the age of 18 years, under any authority or body from which functions were transferred by the Act of 1946, or by the National Health Service (Scotland) Act 1947, or under an officer of such an authority or body or at or for the purposes of premises which have been transferred to or acquired under the said Act of 1946 or under the said Act of 1947, and, if he left any such employment as aforesaid in order to undertake war service or, if immediately after leaving that employment he became engaged in national service, and within 6 months after the termination of that service returned to any such employment as aforesaid, there shall also be reckonable as service for the purpose aforesaid the period of that war service or national service.

- (2) The employments to which the last preceding paragraph refers are—
- (a) the employment to which the person was transferred as mentioned in that paragraph or which he entered in consequence of the acquisition of premises by the Secretary of State as aforesaid; and
 - (b) any other employment under an employing authority which he entered—
 - (i) on being so transferred; or
 - (ii) on entering as aforesaid the employment of an employing authority in consequence of the acquisition of premises by the Secretary of State,

being in any such case employment in which he thereupon became an officer.

(3) Where in consequence of a notice given under regulation 30(8) of the 1950 regulations an option, previously exercised by a person to whom paragraph (1) or paragraph (2) of that regulation applied, ceased to have effect—

- (a) the provisions of paragraph (1) shall apply in relation to him as they apply in relation to a person who became an officer in the circumstances referred to in that paragraph and did not exercise any option excluding the application to him of that paragraph; and
- (b) his employment as an officer prior to the date on which the said option ceased to have effect shall be treated in like manner as if it had been employment reckonable as service under paragraph (1).

(4) The foregoing paragraphs of this regulation shall apply to any person who has become an officer by reason of any event mentioned in regulation 2(2) notwithstanding that he did not become an officer immediately on the happening of that event.

(5) A person who has become an officer by virtue of regulation 4(1)(f) shall be entitled to reckon 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 such benefit, every period of employment which satisfies all of the following requirements, that is to say that it was a period of employment—

- (a) after he attained the age of 18 years;
- (b) before 6th April 1975 under any body which is or is deemed to be an employing authority under these or the previous regulations or any corresponding Scottish regulations;
- (c) for not less than half of such hours in any period as would have constituted whole-time employment in his case;
- (d) which was followed, within not more than 3 months, by other employment to which this paragraph applies or by employment which is reckonable as contributing service; and
- (e) which is not and has not been reckonable as contributing service under these or the previous regulations or any corresponding Scottish regulations.

(6) There shall be reckonable as service in relation to an ophthalmic medical practitioner 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 such benefit, service on the ophthalmic list of an Executive Council before 1st April 1974.

(7) Where a person again becomes an officer not more than one month after having ceased to be an officer any period of employment which is reckonable as service on his so ceasing and which does not reckon as contributing service in relation to the employment in which he is an officer shall be reckonable 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 such benefit.

(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 such benefit, any earlier period during which he was so employed.

Purchase of added years of contributing service

25.—(1) An officer may elect within 12 months of—

- (a) first becoming an officer;
- (b) becoming an officer without being able to reckon as service previous employment as an officer; or
- (c) becoming an officer in circumstances in which a previous period of employment which was reckonable as service under these or the previous regulations, and for which no transfer payment or any other benefit except a return of contributions has been paid, is no longer reckonable,

to make payment in accordance with the provisions of Schedule 7, so that complete years of contributing service may be added to his contributing service:

Provided that—

- (i) the time limit of 12 months may be extended to such longer period as the Secretary of State may in any particular case allow, in which event the Secretary of State may vary the provisions of Schedule 7 in such manner as he considers to be appropriate;

- (ii) an officer shall not be permitted to elect under this regulation during a period when he is on leave of absence from duty; and
- (iii) if an officer whose remuneration is calculated under paragraph 8(3)(b) or 8(4)(b) of Schedule 7 ceases to be an officer during the period therein mentioned (otherwise than by virtue of regulation 22(1)) his election under this regulation shall be cancelled.

(2) An officer to whom paragraph (1)(c) applies who elects to make payments under this regulation so as to reckon previous service mentioned in the said sub-paragraph may do so in respect of any number of completed years of such service, not being service which was in contracted-out employment, and the sum payable shall be one-half of the amount calculated in accordance with Schedule 7.

(3) Where an officer has completed payments in accordance with paragraph (1) or paragraph (2), the number of added years so purchased shall be added to his contributing service.

(4) Where any payments in accordance with paragraph (1) or paragraph (2) remain to be made by an officer and at least one payment has been made by him—

- (a) in the event of his becoming entitled to a pension under regulation 8(1)(a)(i) or dying whilst an officer, the remaining payments shall be waived and there shall be added to his contributing service the total number of years of contributing service that he elected to purchase and such added service shall be reckonable for the purpose of determining entitlement to any benefit under these regulations;
- (b) in the event of his ceasing to be an officer in circumstances other than those mentioned in sub-paragraph (a) of this paragraph, there shall be added to his contributing service that proportion of the service which he elected to purchase as the amount paid bears to the total amount due to be paid, except that, if within 6 months of so ceasing to be an officer he pays the balance of the total amount due to be paid, there shall be added to his contributing service the total number of years of contributing service that he originally elected to purchase, so, however, that the balance of the total amount due to be paid shall be reduced by the amount added under paragraph 4 of Schedule 7 in respect of the period between the date on which he so ceased to be an officer and the date on which the final payment was due; or
- (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) or 8(1)(a)(v), 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 7 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.

(5) In the case of a practitioner, in respect of each year that is added to his contributing service by virtue of paragraph (3) or paragraph (4) there shall be added to his remuneration for the financial year in which the material date (as defined in paragraph 2 of Schedule 7) falls the remuneration on which the payments under this regulation were calculated, and a proportionate part of such remuneration shall be added in respect of any part-year.

- (6) (a) Where a person was an officer on 1st October 1972 or became an officer after that date but before 19th July 1974 and his election to make payment under this regulation is received by his employing authority by 31st December 1975, or within such longer period as the Secretary of State may in any particular case allow, then, for the purposes of calculating the amount of such payment and for paragraph (5)—
- (i) the material date shall be deemed to be 1st October 1972 or such later date on which he became an officer;
 - (ii) in the case of an officer, other than a practitioner, his remuneration for the purposes of paragraph 8(3) of Schedule 7 and subject to the provisos thereto, shall be his annual rate of remuneration at the material date or if he was then an officer specified in regulation 7(2) his average remuneration;
- (b) where a person elects to make payment under sub-paragraph (a) of this paragraph and before 19th July 1974 became entitled to a pension under regulation 8, then, notwithstanding the provisions of paragraph 1(b) and (c) of Schedule 7, the sum payable by him shall be paid in a lump sum.

Additional payments to reckon certain periods of service as contributing service at actual length

26.—(1) An officer who is entitled under regulation 34(1)(a)(ii) to reckon a period of service before 6th April 1978 as contributing service at half its length may within 12 months of first becoming such officer elect to pay an amount equal to the contributions he would have paid during that period had his remuneration been his remuneration on the material date and on making such payment that period shall reckon as contributing service at its actual length:

Provided that—

- (i) the time limit of 12 months may be extended to such longer period as the Secretary of State may in any particular case allow; and
 - (ii) if an officer whose remuneration is calculated in accordance with paragraph 8(3)(b) of Schedule 7 ceases to be an officer during the period therein mentioned (otherwise than by virtue of regulation 22(1)) his election under this regulation shall be cancelled.
- (2) Payments under paragraph (1) may be made—
- (a) wholly or partly by a lump sum paid within such time as the Secretary of State may specify; and
 - (b) any balance not paid by a lump sum, by equal instalments spread over not more than 5 years, the first instalment to be paid within such period as the Secretary of State may specify and the whole of the instalments to be paid by the date on which the officer attains the age of 65 years.
- (3) Where any payments in accordance with this regulation remain to be made by an officer—
- (a) in the event of his becoming entitled to a pension payable immediately on ceasing to be an officer or dying whilst an officer, a deduction in respect of any amount due shall be made from any benefit payable under these regulations to or in respect of him;

- (b) in the event of his ceasing to be an officer in circumstances other than those mentioned in sub-paragraph (a) of this paragraph then, unless within 6 months of so ceasing to be an officer he pays the balance of the total amount due to be paid, there shall be reckonable as contributing service at full length only such proportion of the period of service which he elected to be so reckonable as the amount paid bears to the total amount due to be paid and the remainder of such period shall reckon as contributing service at half length; or
 - (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) or 8(1)(a)(v), 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 7 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.
- (4) In this regulation—
- (a) “the material date” means the date on which the officer’s election is received by his employing authority; and
 - (b) “remuneration” in relation to remuneration on the material date has the same meaning as “remuneration” in paragraph 8(3) of Schedule 7.

Purchase of unreduced retiring allowance

27.—(1) Where either proviso (a) or (b) to regulation 9(3) applies to the calculation of an officer’s retiring allowance, he may elect within 12 months of—

- (a) 27th August 1975 if he is then an officer, or
- (b) the date on first becoming an officer thereafter if he is not then an officer, or
- (c) making a nomination under regulation 18,

to make payment in accordance with the provisions of Schedule 8 in respect of either the whole or any part of his contributing service before 25th March 1972, or in the case of a male officer such earlier date when he became a widower or was divorced or judicially separated from his wife, so that the retiring allowance to which he may become entitled in respect of such contributing service shall, on completion of such payment, be a sum equal to three times the annual amount of his pension (as calculated under regulations 9 and 71) in respect of that service and for the purpose of calculating the payment required under this regulation any period of service which is reckonable at greater than its actual length by virtue of regulation 55 shall be reckonable at that greater length:

Provided that—

- (i) a male officer who marries after 27th August 1975 and whose retiring allowance thereby falls to be calculated in accordance with proviso (a) to regulation 9(3) may elect under this paragraph within 12 months of the first date on which he is an officer after so marrying;
- (ii) the time limit of 12 months may be extended to such longer period as the Secretary of State may in any particular case allow, in which event the Secretary of State may vary the provisions of Schedule 8 in such manner as he considers to be appropriate;

- (iii) an officer shall not be permitted to elect under this regulation during a period when he is on leave of absence from duty on account of sickness or without pay or on reduced pay;
- (iv) an officer shall not be permitted to elect under this regulation in respect of any service before 25th March 1972 for which he became entitled to receive payment of a retiring allowance before 4th July 1974; and
- (v) if an officer whose remuneration is calculated under paragraph 5(3)(a) or 5(4)(a) of Schedule 8 ceases to be an officer in the period therein mentioned (otherwise than by virtue of regulation 22(1)) his election under this regulation shall be cancelled.

(2) Where any payments in accordance with paragraph (1) remain to be made by an officer and at least one payment has been made by him—

- (a) in the event of his becoming entitled to a pension under regulation 8(1)(a)(i) or dying whilst an officer, he shall, for the purposes of paragraph (1), be deemed to have completed the remaining payments;
- (b) in the event of his ceasing to be an officer in circumstances other than those mentioned in sub-paragraph (a) of this paragraph, the provisions of paragraph (1) shall apply only to that proportion of the contributing service in respect of which he was making the said payments as the amount paid bears to the total amount due to be paid, except that if within 6 months of so ceasing to be an officer, he pays the balance of the total amount due to be paid, the provisions of paragraph (1) shall apply to the contributing service in respect of which he elected to make the said payments, so, however, that the balance of the total amount due to be paid shall be reduced by the amount added under paragraph 4 of Schedule 8 in respect of the period between the date on which he so ceased to be an officer and the date on which the final payment was due; or
- (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) or 8(1)(a)(v), 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 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.

(3) The provisions of Schedule 11 shall apply where an election made under this regulation by a male officer who was an officer on 1st October 1972 or became an officer after that date is received by his employing authority on or before 31st December 1975 (or within such longer period as the Secretary of State may in any particular case allow) or where such an election is deemed to have been made under that Schedule.

(4) In calculating the amount by which a death gratuity shall be reduced in accordance with the provisions of regulation 13(3)(a) or (b) or regulation 13(4), as the case may be, no account shall be taken of that part of the officer's contributing service before 25th March 1972 in respect of which payment under paragraph (1) has been completed or deemed to have been completed.

Limitation on reckonable service

28.—(1) Notwithstanding the provisions of regulations 21 to 27, the contributing service of an officer before he attains the age of 60 years or, if the officer is a mental health officer, or a woman who is a nurse, physiotherapist, midwife or health visitor, the age of 55 years, that is reckonable as service shall not exceed 40 years and any service added under regulations 34(3), 35(6) or 75(2) or (3) shall not exceed such amount as would increase the contributing service to 40 years.

(2) Where the contributing service of an officer exceeds 45 years, any benefits payable to or in respect of him under these regulations shall be based on 45 years of such service.

Reckoning of contributing service

29.—(1) There shall be reckonable as contributing service in relation to the employment of an officer by an employing authority—

- (a) service in respect of which he has made or is or was deemed to have made the contributions required by these regulations or by the previous regulations;
- (b) any service which was reckonable as contributing service in relation to that employment under the previous regulations;
- (c) any service which is reckonable as contributing service under the provisions of regulation 21(1) or 21(3);
- (d) any service in respect of which he completes or has completed payments in accordance with the provisions of Schedule 2 to the 1961 regulations (a);
- (e) any other service which by virtue of these regulations is reckonable as contributing service; and
- (f) any periods added to his contributing service reckonable by virtue of regulation 25 or any corresponding provision of the previous regulations.

(2) Any war service or national service which is reckonable as a period of service under regulation 21 of the 1961 regulations in relation to an officer shall be reckonable as a period of contributing service if his service immediately before such war service or national service is so reckonable.

Continuation of additional contributory payments previously made under the Local Government Regulations 1954

30.—(1) Subject to paragraph (2), where before 1st January 1974 a person—

- (a) became an officer after ceasing employment in which he was a contributory employee and thereupon became entitled to have his service in respect of that employment reckoned; and
- (b) at the time when he left that employment was, or was treated as if he was, in the course of making additional contributory payments under Schedule 2 to the Local Government Regulations 1954,

he shall be entitled to make the outstanding payments as if they were instalments of a sum payable under Schedule 2 to the 1961 regulations and, if he completes the payments in the manner provided in Schedule 2 to the 1961 regulations, to

(a) S.I. 1961/1441; relevant amending regulations are S.I. 1966/1523, S.I. 1967/949, S.I. 1972/1537, S.I. 1974/1047.

have the service in respect of which they were made reckoned as contributing service and notwithstanding anything in these regulations, that service shall not otherwise be reckonable.

(2) This regulation shall not apply to any officer who has not, within 3 months after entering their employment, given notice in writing to the employing authority of his intention to continue payments under this regulation and paid to that authority within that period or within such longer period as the Secretary of State may in any particular case allow an amount equal to any sum paid to him by way of return of additional contributory payments made in respect of the said period of service on or after ceasing to hold the employment in which he was a contributory employee together with an amount equal to any income tax which was deducted from his additional contributory payments in respect of such return.

Continuation of additional contributory payments previously made under certain schemes

31.—(1) This regulation shall apply where before 1st January 1974 a person—

- (a) became an officer after ceasing employment in which he was a local Act contributor and thereupon became entitled to have his service in respect of that employment reckoned; and
- (b) on the date when he ceased that employment was in the course of making payments (otherwise than in respect of added years) by way of—
 - (i) instalments in discharge of a fixed sum; or
 - (ii) contributions of a fraction or percentage of emoluments additional to the percentage payable in respect of current service,

as a condition of being entitled to have reckoned any period of employment in relation to which those payments were being made as a period of service or a period of contribution for the purposes of the local Act scheme, or as a condition of increasing the length at which the said period of employment would be reckonable as a period of service or a period of contribution for the purpose of calculating a benefit under the local Act scheme; but notwithstanding anything in these regulations, the said period of employment shall not otherwise be reckonable, or shall reckon as contributing service at the length at which it would have been reckonable if no such payments had been made, as the case may be.

(2) If the officer notifies the employing authority in writing within 3 months after entering their employment that he elects to make payments in pursuance of this regulation and pays to that authority within that period or within such longer period as the Secretary of State may in any particular case allow an amount equal to any sum paid to him by way of a return of any such payments as are referred to in paragraph (1), then—

- (a) in a case to which paragraph (1)(b)(i) applies the amount which, if paid as a single payment, would discharge the outstanding liability; and
- (b) in a case to which paragraph (1)(b)(ii) applies the capital value of the outstanding liabilities, as certified by an actuary appointed by the local Act authority,

shall be deemed to be a sum payable under Schedule 2 to the 1961 regulations and if payment is made in accordance with the provisions of that Schedule the period of employment in respect of which the payments were being made shall be reckonable as a period of contributing service in the manner in which it

would have been reckonable under these regulations if the payments had been completed before the officer left the employment in which he was a local Act contributor.

(3) Subject to any necessary modifications, this regulation shall also apply in relation to any person who became an officer before 1st January 1974 and thereupon became entitled to have reckoned as service previous employment (otherwise than as a contributory employee) in which he was subject to a superannuation scheme as if such scheme was a local Act scheme and the expression "local Act contributor" shall be construed accordingly.

Provisions with respect to added years

32.—(1) Subject to the provisions of this regulation, where before 1st January 1974 a person—

- (a) became an officer after ceasing employment in which he was a contributory employee or a local Act contributor and thereupon became entitled to have his service in respect of that employment reckoned; and
- (b) on the date when he ceased that employment was in the course of making payments in respect of added years,

then, if he complies with such of the conditions set out in paragraph (2) as are applicable in his case, he shall be entitled to continue to make the like payments to his employing authority in respect of the added years as he would have been liable to make to the appropriate superannuation fund if the superannuation enactment to which he was subject in his former employment had been applicable to him in his new employment; and if he makes the said payments to his employing authority in the manner in which, and at the times at which, he would have been liable to make them as aforesaid, he shall be entitled—

- (i) to enjoy in relation to his employment as an officer rights in respect of added years corresponding with the rights which he would have enjoyed if at the time of entering the employment in which he is an officer he had become, instead, a contributory employee; and
- (ii) to continue to enjoy those rights so long as he makes payments in respect of the said added years in the manner and at the times aforesaid and remains an officer of any employing authority without a break of 12 months or more during no part of which he is a contributory employee or local Act contributor.

but notwithstanding anything in these regulations, such added years shall not otherwise reckon.

(2) The conditions referred to in paragraph (1) are—

- (a) within 3 months after entering employment in which he is an officer he gives notice in writing to his employing authority of his intention to continue payments in respect of the said added years and pays to that authority within that period or such longer period as the Secretary of State may in any particular case allow an amount equal to any sum paid to him by way of return of contributions paid in respect of the said added years on or after his ceasing to hold the employment in which he was a contributory employee or local Act contributor together with an amount equal to any income tax which was deducted from his contributions in respect of such return; and
- (b) he pays to the employing authority in respect of the period since he left the employment in which he was a contributory employee or local Act contributor an amount equal to the amount which in the aggregate

he would have paid to the superannuation fund to which he was a contributor in respect of that period if he had remained in his former employment.

(3) Notwithstanding anything in paragraphs (1) and (2)—

(a) an officer shall not be entitled to make payments in respect of added years under paragraph (1) if he left the employment in which he was a contributory employee or local Act contributor in such circumstances that in consequence of a resolution of the authority by whose consent the added years first became reckonable he ceased to be entitled to reckon the said added years;

(b) an officer who makes payments in respect of added years under paragraph (1) in respect of employment in which he is an officer shall also make payments in respect of those added years—

(i) in respect of any other employment as an officer which he holds concurrently with the first-mentioned employment; and

(ii) in respect of any period (since he first became entitled to reckon added years under paragraph (1)) during which he was not an officer unless during that period he became a contributory employee or local Act contributor.

(4) Payments in respect of any such period as is referred to in paragraph (3)(b)(ii) shall be made at the rate at which payments in respect of added years were being made by the person concerned immediately before he ceased to be an officer and shall be paid to the employing authority within 3 months after the person concerned has entered the employment in which he is an officer.

(5) Subject to any necessary modifications, this regulation shall also apply in relation to added years reckonable in respect of any person who became an officer before 1st January 1974 and thereupon became entitled to have reckoned as service previous employment in which he was subject to a superannuation scheme as if such scheme was a local Act scheme and the expression "local Act contributor" shall be construed accordingly.

Continuation of additional contributions by transferred officers

33.—(1) Where a transferred officer, other than an officer to whom the provisions of regulation 44 or 48 apply, was, immediately before he became a transferred officer, paying or had elected to pay additional contributions in order to have reckoned added years of service or to increase the length or value at which a period of service may reckon, then if—

(a) within 3 months of becoming a transferred officer he gives notice in writing to his employing authority of his intention to make or continue to make such payments,

(b) he makes or continues to make those payments which he would have been liable to make in his former employment to his employing authority, and

(c) he remains an officer of an employing authority without a break of 12 months or more and without having received a benefit under these regulations,

he shall be entitled to enjoy in relation to his employment as an officer rights in respect of such payments corresponding with those he would have enjoyed if at the time of becoming such transferred officer he had remained in his former employment and notwithstanding anything in these regulations, he shall not otherwise be entitled to enjoy those rights.

(2) An officer who makes payments under paragraph (1) in respect of employment in which he is an officer shall also make such payments in respect of all concurrent employment as an officer.

Method of calculating service, contributing service and non-contributing service

34.—(1) In calculating the length of an officer's whole-time service, other than service as a practitioner, and in making any other calculation under these regulations (except a calculation under regulation 47)—

- (a) any of the following periods of service which is not reckonable as contributing service by virtue of regulation 29 shall be reckonable at its full length for the purpose of determining whether any benefit is payable to or in respect of him, and for all other purposes shall reckon as a period of contributing service at half its length—
 - (i) any period of service which was reckonable before 25th March 1972 as a period of non-contributing service;
 - (ii) any period of whole-time service during which he did not pay and was not deemed to have paid contributions but excluding a period of employment during which he was absent without leave; and
 - (iii) any service which became reckonable prior to 1st January 1974 by virtue of regulation 17 of the 1961 regulations (a) or a corresponding provision of the previous regulations and which was reckonable in the superannuation scheme in which he participated as non-contributing service or as a period of service which would have reckoned for benefits at half the value of the benefits for contributing service or for established service;
- (b) in order to determine the total contributing service of an officer all periods of contributing service shall be aggregated, and where 2 or more periods aggregate to 365 days or more each period of 365 days shall be reckoned as one year, service on 29th February in a leap year being disregarded.

(2) Where a benefit (except a benefit under regulation 47) payable to or in respect of an officer is required to be calculated by reference to years of contributing or non-contributing service, there shall also be payable in respect of any part of a year an amount which bears the same proportion to the amount payable for a year as the number of days in that part bears to 365 days.

(3) Where a pension is payable under regulation 8(1)(a)(i) there shall be added to the officer's service a period of contributing service as follows—

- (a) if his contributing service does not exceed 10 years, either a period equal to such service or the period by which such service would have been increased if the officer had continued to be employed until he had reached the age of 65 years, whichever is the shorter;
- (b) if his contributing service exceeds 10 years, a period equal to whichever is the longer of the following—
 - (i) the period by which such service is less than 20 years or the period by which such service would have been increased if the officer had continued to be employed until he had reached the age of 65 years, whichever is the shorter; or

(a) S.I. 1961/1441; relevant amending regulations are S.I. 1966/1523, S.I. 1973/242, S.I. 1974/223, S.I. 1975/1292, S.I. 1978/1353.

- (ii) 6 years and 243 days or the period by which such service would have been increased if the officer had continued to be employed until he had reached the age of 60 years, whichever is the shorter:

Provided that—

- (i) in determining the period by which the officer's service would have been increased if he 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 75(3) shall apply to such an officer as it applies to a practitioner with service otherwise than as a practitioner.

Calculation of service in part-time employment

35.—(1) For the purpose of determining whether any benefit is payable to or in respect of an officer, or in applying any provision of these regulations which limit the service to be taken into account to a specified period of 40 or 45 years, or in reckoning the period of any employment for the purposes of regulation 55 or of any service for the purposes of regulation 10 or regulation 56(3), the service of an officer in part-time employment shall be treated as whole-time service and for these purposes concurrent periods of employment shall be regarded as a single employment.

(2) For any purpose of these regulations not specified in paragraph (1), the service of an officer in part-time employment shall be calculated in accordance with the following provisions of this regulation but so that, except as provided in regulation 55, concurrent part-time employments during any period shall not in aggregate be treated as a greater period of whole-time service.

(3) Subject to the provisions of paragraph (7), where a part-time employment is expressed as a specified number of half-days or sessions per week, the service shall be treated as whole-time service for a period which bears the same proportion to the period of the service in part-time employment as the number of half-days or sessions of employment bears to the number of half-days or sessions which would have constituted whole-time service for the employment in question.

(4) Where the remuneration for any employment referred to in paragraph (3) is expressed at a rate greater or less than the relevant proportion of whole-time salary, the period of service calculated under that paragraph shall be increased or decreased, as the case may be, in the same proportion.

(5) For any part-time employment other than those described in paragraph (3), the service shall be treated as whole-time service for a period which bears the same proportion to the period of the service in the part-time employment as the number of hours of employment in each week bears to the number of hours which would have constituted whole-time service for the employment in question.

(6) Notwithstanding anything in regulation 34(3), where an officer becomes entitled to a pension under regulation 8(1)(a)(i) in respect of service which consists of or includes service in part-time employment, his aggregated service, as calculated under regulation 34(1) and paragraph (1), shall be increased as provided in regulation 34(3) and his reckonable service shall be increased by the same proportion as such aggregated service is increased.

(7) 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 of 1946, 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 manner 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 1/80th of the annual average of such remuneration in the last 3 years of such notional employment, or in the whole of such notional employment if less than 3 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.

Meaning of average remuneration

36.—(1) For the purposes of these regulations, the average remuneration of an officer in relation to his employment by an employing authority means his remuneration in respect of his final year of such paid employment, and of any other employment, war service or national service reckonable as contributing service in relation to that employment, ending on the date on which he ceased to be an officer or the date on which he became an officer referred to in regulation 7(2) whichever is the earlier, and such a final year shall, if a particular case so requires, be computed by aggregating periods of employment so as to constitute a period of one year so, however, that if his employment or service as aforesaid was for less than one year his average remuneration shall be deemed to be the amount he received increased by the proportion which 365 bears to the number of days of his employment or service:

Provided that—

- (a) (i) if the annual amount of remuneration of an officer in either of the 2 consecutive years of paid employment immediately preceding the final year is higher than his remuneration in his final year, then the remuneration in whichever of such earlier years was the higher shall be deemed to be the amount of remuneration for the final year, except that where the remuneration in the 2 consecutive years immediately preceding the final year is higher than the remuneration in the final year by an equal amount the remuneration in the year immediately preceding the final year shall be deemed to be the amount of remuneration for the final year;

- (ii) if his employment was for less than 3 years and his remuneration in the year of paid employment immediately preceding his final year was higher than his remuneration in his final year, then such higher remuneration shall be deemed to be the amount of remuneration for the final year;
- (b) in the case of an officer who, on a reduction in his remuneration, made contributions in accordance with regulation 7(5) of the 1961 regulations (a) or the corresponding provision of the previous regulations, the remuneration on which he so made contributions in respect of the period during which his remuneration was reduced shall be deemed to have been the remuneration of his employment during that period;
- (c) in the case of an officer who made contributions in accordance with regulation 7(3) or the corresponding provision of the previous regulations, the remuneration on which he so made contributions shall be deemed to have been the remuneration of his employment;
- (d) in the case of an officer whose remuneration was reduced by reason of his absence from duty owing to illness or injury, no account shall be taken of the reduction;
- (e) the remuneration of an officer in respect of any period of war service or national service which is reckonable as service under these regulations shall be deemed to have been the remuneration on which he made contributions in accordance with regulation 7(6) of these regulations or regulation 7(8) of the 1955 regulations;
- (f) except for the purposes of regulation 40, or for the calculation under regulation 13 of a sum equal to the amount of a person's average remuneration, the remuneration in respect of any period or any concurrent periods of part-time employment shall be deemed to be the remuneration which the Secretary of State determines would have been paid in respect of a single comparable whole-time employment;
- (g) in calculating for the purposes of these regulations, except regulation 40, the average remuneration of an officer whose service includes service as a medical officer or a dental officer, no account shall be taken of any fees paid to him in accordance with his terms of service for domiciliary consultations;
- (h) if the employment as an officer was for less than 3 years and there is a period of previous employment reckonable as contributing service under regulation 21(4) the remuneration in respect of that previous employment shall be deemed to be at the annual rate of pensionable pay by reference to which the contributing service was calculated under Schedule 2;
- (i) in a case where any payment which has been awarded to an officer or to which he was entitled under his conditions of employment has been withheld or deferred in the national interest then, if the Secretary of State considers it appropriate, the withholding or deferment shall be deemed not to have taken place.

(2) Except as provided in proviso (f) to paragraph (1) the remuneration of any previous employment shall not be taken into account in calculating a person's average remuneration in relation to his employment as an officer if that remuneration has previously been taken into account in the calculation of his average remuneration in relation to any other employment for the purpose of a benefit payable to him under these regulations in respect of that other employment.

(a) S.I. 1961/1441; relevant amending regulations are S.I. 1966/1523, S.I. 1975/1292.

Return of contributions

37.—(1) Subject to the following provisions of this regulation, a person who on ceasing to be an officer does not become entitled to receive payment of 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 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.

(2) In this regulation the word “contributions” has the meaning assigned to it by regulation 2(5), 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 payment 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 a person who on ceasing to be an officer before 6th April 1980, has attained the age of 26 years and has completed 5 years' service, excluding any added years 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).

(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 has been paid, 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.

Calculation of interest on contributions

38. Where under any of these regulations provision is made for the calculation of compound interest on the contributions of an officer, that calculation, unless otherwise provided, shall be at the rate of $2\frac{1}{2}$ per cent per annum, with yearly rests, up to the date of his death, or, if he ceased to be an officer before he died, the date on which he ceased to be an officer, and shall begin to run from the first day of the year commencing on the first day of April following the year in which the contributions were made:

Provided that—

- (a) if any of the contributions were made under an enactment or scheme in the benefits of which the officer participated before becoming an officer, and that enactment or scheme made provision for the calculation of interest on contributions returned thereunder in a different manner from that provided by this regulation, interest on the contributions so made shall be calculated in manner provided by the enactment or scheme in the benefits of which the officer last participated before becoming an officer up to the date on which he became an officer or, if he received a return of those contributions before that date, up to the date of such return; and
- (b) where an officer, having received a return of contributions on or after ceasing to hold some former employment, has paid or repaid those contributions to the employing authority, then—
- (i) if those contributions were returned without interest, the interest thereon shall not begin to run until the first day of April in the year following that in which those contributions were so paid or repaid as aforesaid; and
- (ii) if those contributions were returned with interest, no interest shall be calculated thereon between the date on which they were returned and the first day of April in the year following that in which they were so paid or repaid as aforesaid;
- (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.

Conditions attaching to grant of pension

39.—(1) Subject to the following provisions of this regulation, where a person who has not attained the age of 60 years is in receipt of a pension under regulation 8(1)(a)(i) or the corresponding provision of the previous regulations and the Secretary of State is satisfied that he has become capable of resuming the duties of his employment, he may require him to enter the employment of any employing authority in any capacity for which his previous experience may

render him suitable, and if he declines to enter that employment, or declines or neglects satisfactorily to discharge the duties thereof, he shall not be entitled to any payment on account of the pension in respect of any period before he attains the age of 60 years:

Provided that the Secretary of State shall not require a person to whom this paragraph applies to enter the employment of an employing authority if that person has entered or enters any other employment approved by the Secretary of State, so long as he continues in employment so approved.

(2) The Secretary of State may require a person to whom paragraph (1) applies to submit himself to a medical examination by a registered medical practitioner selected by the Secretary of State and, if he does so, he shall also offer the person an opportunity of submitting a report from the person's own medical adviser as a result of an examination made by him, and the Secretary of State shall take that report into consideration, together with the report of the medical practitioner selected by the Secretary of State.

(3) If a person fails to comply with a requirement made under paragraph (2) he shall be treated as if the Secretary of State were satisfied that he had become capable of resuming the duties of his employment.

(4) Where the Secretary of State is satisfied that a person to whom paragraph (1) applies is capable of resuming the duties of his employment but the person is unwilling to accept employment under an employing authority which has been offered to him, and the Secretary of State has not approved any other employment he may have entered or proposes to enter, the Secretary of State, before requiring him to enter the employment which has been offered to him or any other employment, shall refer the matter to a referee or board of referees appointed for the purpose by the Secretary of State for Employment, and shall consider the advice which, after having interviewed the person and afforded him an opportunity of stating his case, the referee or board of referees tenders to the Secretary of State as to whether, regard being had to the person's previous experience and all the circumstances of the case, it being assumed that he is capable of resuming the duties of his employment, it would be reasonable to require him to enter the employment which has been offered to him or any other employment specified by the referee or board of referees.

(5) The proceedings on any reference to a referee or board of referees under the last preceding paragraph shall not be deemed to be an arbitration to which anything in the Arbitration Act 1950(a) applies.

Reduction of pension in certain cases

40.—(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 3 or in the corresponding provision of the Scottish regulations; or

(b) continues in or enters any other employment in which he participates in the benefits provided under these regulations or the Scottish regulations,

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—

- (i) 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(a) or in respect of whom a direction has been made under Section 7 of the Superannuation (Miscellaneous Provisions) Act 1967(b); and
- (ii) this paragraph shall not apply to a pension payable to a person immediately before he was transferred to the employment of an employing authority under the Act of 1973.

(2) Whilst a person holds any employment to which paragraph (1) 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) applies other than an employment to which paragraph (2) 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.

(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—
 - (aa) 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;
 - (bb) 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;
 - (cc) on the cessation or commencement of a concurrent employment to which this paragraph applies;

(a) 1949 c. 93. (Section 18 was repealed by the National Health Service Act 1977 c. 49).

(b) 1967 c. 28. (Section 7 has been amended by s. 29 of and Schedules 6 and 8 to the Superannuation Act 1972 (c. 11) and s. 129 of and paragraph 40 of Schedule 15 to the National Health Service Act 1977 c. 49).

- (*dd*) in the case of an employment to which paragraph (2)(*d*) applies, on the cessation of all concurrent employment to which paragraph (2) applies;
- (*ee*) 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
- (*ff*) 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) 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;
- (*d*) “uprated pension” means the aggregate amount of all pensions payable for the quarter specified in paragraph (2), or the aggregate of all pensions payable at the date specified in paragraph (3), 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 the total uprated remuneration under regulation 71(2)(*a*) for service which was or was deemed to be service as a practitioner,
 - (*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 regulation 40(4)(*e*)(*i*) and 40(4)(*e*)(*ii*) applied simultaneously, the aggregate of the amounts calculated under those provisions:

Provided that—

- (1) such pre-retirement earnings shall be increased by the annual rate of remuneration of any continuing employment;

- (2) where a person holds an employment to which the provisions of this regulation apply on 1st April 1980 the method of calculating pre-retirement earnings under regulation 40(4)(e)(i) shall not have the effect of reducing the amount of the pre-retirement earnings as calculated under the corresponding provision which applied immediately before that date, and this provision shall apply until the cessation of that 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 employment 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) 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.

Separate benefits in the case of certain re-employed pensioners

41.—(1) Where a person who is entitled to a pension payable out of public funds, whether under these regulations or otherwise, has become an officer and his pension is on that account liable to be reduced or suspended, then on ceasing to be employed, unless he is a person to whom regulation 42 applies, the service in respect of which that pension was granted shall be reckonable for the purpose of determining whether the person is entitled to receive any benefit under these regulations, but for no other purpose.

(2) For the purposes of regulation 7(2) and regulation 28(1), in the case of a person mentioned in paragraph (1) the service in respect of which the said pension was granted shall be treated as though it were service under these regulations, and in the calculation of any benefit payable to or in respect of such a person under these regulations, whether by virtue of paragraph (1) or otherwise, account shall not be taken of any service under these regulations which, together with the service in respect of which the pension aforesaid was granted, exceeds 45 years:

Provided that—

- (a) where the said pension was granted to an established officer or servant of the first class under the Act of 1909 or to a person having (by virtue of an option exercised under these regulations or the previous regulations) rights corresponding with the rights of a first class officer or servant under the Act of 1909, the service in respect of which the pension was granted shall be multiplied by 6/5ths;
- (b) where the said pension was granted to a person who was a mental health officer or a person having, in respect of years of service over 20, rights corresponding with those of a mental health officer, each year of which account was taken as if it were 2 years in calculating the amount of the said pension shall be reckoned as 2 years for the purposes of this paragraph;

- (c) where the said pension was granted to a person having (by virtue of an option exercised under the 1947 regulations) rights corresponding with the rights of a person to whom the Superannuation (Prison Officers) Act 1919(a) applied, each year in respect of which 2/80ths or 2/60ths of his annual salary and emoluments were added in calculating the amount of the said pension shall be reckoned as 2 years for the purposes of this paragraph;
- (d) where, under the proviso to regulation 9(1) of the 1961 regulations (b) or under a similar provision contained in or authorised by any other enactment or scheme, the said pension was calculated by reference to a minimum fraction of remuneration, it shall be deemed to have been granted in respect of years of service equal in number to the numerator of that fraction; and
- (e) any other notional increase or extension of service shall be similarly taken into account for the purposes of this paragraph.

(3) Where a benefit becomes payable to or in respect of a person to whom this regulation applies, any provision of these regulations prescribing a minimum benefit or a method of calculating the benefit otherwise than by reference to the amount of the person's contributions or the service reckonable by him or the amount of the pension which was or would in certain circumstances have become payable to him shall be disregarded.

(4) Notwithstanding anything in this regulation, the benefits payable under these regulations to or in respect of a person shall not be less than the benefits which would have been payable under these regulations had this regulation other than paragraph (2) not been made.

Combined benefits in the case of certain re-employed pensioners

42.—(1) Where a person who has become entitled to a pension or retiring allowance under these regulations or the previous regulations not being a reduced benefit paid under regulation 82(2)(b) of these regulations or the corresponding provision of the previous regulations has again become an officer and at the time of becoming such officer was not an officer mentioned in regulation 7(2), he may, unless the provisions of regulation 41 have been applied in respect of his previous service as an officer, if he so elects, or has so elected under the corresponding provision of the previous regulations as from the date on which he ceases to be an officer, be entitled to benefits in accordance with the following provisions of this regulation in lieu of any pension to which he has become entitled as aforesaid and of any benefits to which he might otherwise be entitled under these regulations in respect of his service as such officer:

Provided that this regulation shall not apply in relation to any benefit to which the person became entitled under regulation 8(5) by virtue of his having been an officer to whom regulation 44 applied, or a corresponding arrangement under regulation 48 or in relation to any service taken into account in calculating that benefit.

(a) 1919 c. 67.

(b) Revoked in part by regulation 5 of S.I. 1972/1537.

(2) A person to whom the last preceding paragraph applies shall be entitled on ceasing to be an officer to receive the like benefits as he would be entitled to receive if the service (other than contributing service added under regulations 34(3), 75(2) or 75(3)) in respect of which he previously became entitled to a pension or retiring allowance were reckonable in addition to his service as such officer:

Provided that if the person had previously been entitled to a retiring allowance under these regulations, or the previous regulations, then—

(a) if the amount of the said retiring allowance (hereinafter in this paragraph called “the first allowance”) equals or exceeds the amount of the retiring allowance to which, apart from this sub-paragraph, he would be entitled under this paragraph (hereinafter called “the second allowance”)—

- (i) a retiring allowance shall not be payable under this paragraph; and
- (ii) any other benefits payable to or in respect of the person under this paragraph shall be reduced in such manner as the Secretary of State may determine to be necessary for the purpose of recovering the amount (if any) by which the first allowance exceeds the second allowance; and

(b) if the amount of the second allowance exceeds the amount of the first allowance the second allowance shall be reduced by the amount of the first allowance.

(3) If a person to whom paragraph (1) applies had taken advantage of the provisions of regulation 12 or the corresponding provisions of the previous regulations, in relation to any pension to which he had previously become entitled as aforesaid, no title to any pension shall accrue by reason thereof.

(4) If a person who has become entitled to benefits under this regulation again enters employment as an officer, paragraph (1) shall not apply on his ceasing to hold that employment unless he so elects.

Calculation of benefits on death of re-employed pensioner

43. Where such a person as is mentioned in regulation 42 dies while still an officer, the benefits payable in respect of him shall be calculated as if immediately before his death he had become entitled to a benefit under regulation 42 or a benefit under regulation 41, whichever method of calculation gives the greater benefit:

Provided that the method of calculation under regulation 41 shall not be applied in respect of any officer to whom that regulation could not have applied if he had ceased to be employed immediately before his death.

Benefits of officers who have exercised option to retain rights corresponding with those previously enjoyed

44.—(1) Where—

- (a) before the date of coming into operation of these regulations an officer was entitled by virtue of regulation 43(1), (2), (3) or (6) of the 1961 regulations to enjoy rights corresponding with those which he would have enjoyed if he had remained subject to the superannuation enactment or scheme previously applicable in his case; and

(b) but for the revocation of the 1961 regulations by these regulations the provisions of Part II of the 1961 regulations would have applied to and in respect of him, in relation to the employment in which he is an officer, in the manner prescribed by regulation 43(1) of the 1961 regulations, the provisions of this part of these regulations shall similarly apply to and in respect of him, as if, in relation to his employment as such officer, they required him to make the like contributions (if any) as he would have been liable to make and conferred upon him rights corresponding with those which he would have enjoyed if he had remained subject to the enactment or scheme previously applicable in his case, and those provisions shall continue so to apply to and in respect of him 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;
- (b) if an officer who exercised an option referred to in regulation 43 of the 1961 regulations to retain rights corresponding with those enjoyed under the Act of 1909 or the Superannuation Acts was immediately before becoming an officer an established officer or servant of the first class under the Act of 1909 or a person to whom the Superannuation (Prison Officers) Act 1919 applied, and is at any time employed otherwise than for the purposes of a hospital or part of a hospital used for the treatment of persons suffering from mental disorder, the option shall cease to have effect unless in the case of an officer so employed as a result of being transferred under the Act of 1973 the Secretary of State directs otherwise.

(2) Where a person has become an officer before 6th April 1978 in consequence of the acquisition of premises by the Secretary of State under section 58 of the Act of 1946 having immediately before becoming such officer been subject to the provisions of—

- (a) the Superannuation Acts;
- (b) the Act of 1937;
- (c) a local Act scheme;
- (d) any scheme approved by the Secretary of State for the purpose of this regulation; or
- (e) any scheme approved by the Secretary of State under regulation 17(3)(d)(v) of the 1961 regulations (a),

the officer, unless he is such a person as is mentioned in paragraph (3), may notify his employing authority in writing within 3 months after becoming an officer or such longer period as the Secretary of State may allow that he does not wish to avail himself of the benefits provided by these regulations, and in that event the provisions of this Part of these regulations shall apply in relation to him in like manner as they apply to and in respect of a person to whom the provisions of paragraph (1) apply:

Provided that in the case of an officer who was transferred under the Act of 1973, any regulations made under section 7 or 8 of the Act of 1972 and having effect as from 1st April 1974 shall, for the purposes of this paragraph, be deemed to have applied to him immediately before he was so transferred.

(a) Revoked by regulation 8 of S.I. 1975/1292.

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

1146

(3) The provisions of paragraph (2) shall apply to an officer who, having been subject to the Act of 1937 or a local Act scheme and having attained the age of compulsory retirement applicable in his case, becomes an officer in consequence of the acquisition of premises by the Secretary of State under section 58 of the Act of 1946 as if, after becoming an officer, he had exercised the option conferred by paragraph (2) to retain rights corresponding with those enjoyed under the Act of 1937 or the local Act scheme, as the case may be.

(4) Where a person who, pursuant to paragraphs (1) to (3), is required to make the like contributions as he would have been liable to make and is entitled to enjoy rights corresponding with those he would have enjoyed if he had remained subject to the enactment or scheme previously applicable in his case, was while subject to that enactment or scheme a contributor to a thrift fund, a widows' and orphans' pensions fund or any other fund established under express statutory authority for the purpose of providing benefits supplementary to or in augmentation of the superannuation benefits provided under the said enactment or scheme, he shall make additional contributions under these regulations of the like amount as those he would have been liable to make to the said fund if he had remained subject to the said enactment or scheme, and shall in consideration thereof be entitled to the like rights under these regulations as he would have enjoyed had those contributions been contributions to the said fund.

(5) Where a person has become entitled to a pension under these regulations or the previous regulations in pursuance of an option exercised, or which is treated as having been exercised, under this regulation, or under the corresponding provision of the previous regulations, the conditions prescribed by regulations 39 and 42 shall not apply in relation thereto, but in lieu thereof any corresponding conditions prescribed by the enactment or scheme to which he was formerly subject shall attach to the pension or allowance as if it had been granted under that enactment or scheme, and as if any employment as an officer, whether before or after his becoming entitled to the pension or allowance, were employment in the capacity in which he was subject to the said enactment or scheme.

(6) Notwithstanding paragraphs (1) to (5), if a person in pursuance of an option exercised, or which is treated as having been exercised, under this regulation or the corresponding provision of the previous regulations has become entitled to a benefit, other than a return of contributions, payable under these regulations or the 1961 regulations, and thereafter enters employment in which he is an officer, then, if he cannot in that employment become entitled to any further benefit in pursuance of the aforesaid option, this part of these regulations shall apply to him in respect of that employment as if he had not exercised the aforesaid option:

Provided that paragraph (5), in so far as it excludes the application to him of regulation 39 and provides that in lieu thereof any corresponding conditions prescribed by the enactment or scheme to which he was formerly subject shall attach to his pension or allowance as if it had been granted under that enactment or scheme, shall continue to apply in relation to any pension or allowance payable in pursuance of the aforesaid option under these regulations or the 1961 regulations in respect of his former employment.

- (7) Notwithstanding anything in this regulation,
(a) regulation 24(7) and regulation 37(4) shall apply to an officer to whom this regulation applies;

- (b) where this regulation applies to an officer employed in a part-time capacity, regulation 35 shall apply for the calculation of his service in that employment and proviso (f) to regulation 36(1) shall apply for the calculation of his average remuneration in respect of that service;
- (c) the provisions of regulations 60 and 62 shall apply to an officer to whom this regulation applies in lieu of any corresponding provisions in the relevant enactment or scheme;
- (d) where any benefit payable to or in respect of an officer to whom this regulation applies is calculated by reference to the annual average of his remuneration over a final period of his service,
- (i) regulation 34(2) shall, except where the enactment or scheme applicable in his case contains a corresponding provision, apply in respect of any part of a year of his service, and
 - (ii) such benefit shall be uprated by such factor as in the opinion of the Secretary of State represents the upward movement (if any) in the cost of living from the mid-point of the said period to a point 6 months before the end of the said period;
- (e) where a person dies and at the time of his death he was either entitled to a pension, or was an officer and able to reckon not less than 5 years' reckonable service, or was a person who had ceased to be an officer within 12 months before his death after completing 5 years' reckonable service and not having received a return of contributions or become entitled to any other benefits (including a transfer payment) under these regulations, and his pension was or would have been calculated by reference to service and the annual average of remuneration over a final period of service, his widow shall be entitled to receive from the Secretary of State a widow's pension and the annual amount of such widow's pension shall be—
- (i) where the relevant enactment or scheme made no provision for the payment of a widow's pension, an amount equal to the aggregate of the following amounts, namely, an amount equal to 1/6th of the annual amount of the husband's pension (uprated in accordance with paragraph (7)(d)) in respect of his service before 25th March 1972 and an amount equal to 1/4 of the annual amount of his pension so uprated in respect of the remainder of his service, or
 - (ii) where the relevant enactment or scheme made provision for the payment of a widow's pension, an amount equal to the aggregate of the following amounts, namely, an amount equal to the aggregate amount specified in paragraph (7)(e)(i) and an amount equal to 1/2 of the annual amount of the widow's pension (uprated in accordance with paragraph (7)(d)) which apart from this sub-paragraph would have been payable under the relevant enactment or scheme,

and, except as provided in proviso (i) below, a widow's pension shall not be payable at the rate specified in the relevant enactment or scheme:

Provided that—

- (i) if at any time a greater amount would be payable by way of widow's pension (uprated in accordance with paragraph (7)(d)) apart from this sub-paragraph, that widow's pension as so uprated shall be payable in lieu of any payment under this sub-paragraph;
- (ii) for the purposes of this sub-paragraph, a pension payable to a widow in consequence of her husband surrendering part of his pension shall not be regarded as a widow's pension; and

- (iii) the provisions of regulation 14(6) and of the provisos to regulation 14(1) shall apply to so much of a payment under this sub-paragraph as is calculated under paragraph (7)(e)(i) of this sub-paragraph;
- (f) except where the provisions of the enactment or scheme applying to an officer by virtue of this regulation provide that a pension shall not be reduced in respect of further employment, regulation 40 shall apply to a pension payable in pursuance of this regulation, and in the application of regulation 40 the reference in paragraph (4)(e)(ii) therein to average remuneration shall be deemed to be a reference to such average remuneration uprated as would be a benefit under the provisions of paragraph (7)(d);
- (g) where on or after 27th August 1975 an officer to whom this regulation applies suffers a reduction in remuneration and would be entitled under the relevant enactment or scheme to continue making contributions as if his remuneration had not been reduced he shall instead be entitled to benefits under regulation 8(1)(a)(v) in respect of the service reckonable by him immediately before such reduction;
- (h) for the purpose of calculating the average remuneration of an officer to whom this regulation applies, account shall be taken of the provisions of proviso (i) to regulation 36(1); and
- (i) where the officer's contributions or benefits are subject to the modification provisions of the National Insurance Act 1946 those provisions will cease to apply in respect of service on or after 1st April 1980.

Additional pension for widows of certain optants

45.—(1) A male officer to whom regulation 44 applies may within 12 months of 27th August 1975 if he is then a married officer or, in any other case, within 12 months of his becoming a married officer after that date, elect to make payment either in accordance with paragraph (2) or paragraphs (2) and (3), and if he makes such payment and at his death was—

- (a) entitled to a pension under the relevant provisions; or
- (b) an officer and able to reckon not less than 5 years' contributing service under the relevant provisions; or
- (c) a person who ceased to be an officer within 12 months before his death after completing 5 years' contributing service and not having received a return of contributions or become entitled to any other benefit (including a transfer payment) under these regulations,

an annual widow's pension calculated in accordance with this regulation shall become payable to his widow and subject to the provisions of paragraphs (2), (3) and (4) such election shall continue to have effect so long as he is an officer to whom the said regulation 44 applies:

Provided that—

- (i) the time limit of 12 months within which an officer may make an election may be extended to such longer period as the Secretary of State may in any particular case allow, in which event the Secretary of State may vary the provisions of Schedule 9 in such manner as he considers to be appropriate;
- (ii) the provisions of regulation 14(6) shall apply in relation to a widow's pension payable under this regulation;

- (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;
- (iv) a widow's pension under this regulation shall not be payable in respect of more than 45 years' service and no account shall be taken of service before age 60 in excess of 40 years;
- (v) an officer shall not be permitted to elect under this regulation during any period when he is on leave of absence from duty;
- (vi) a transferred officer who became such officer in consequence of the Act of 1973 may only make an election to make payment in accordance with paragraph (3).

(2) Where an officer has elected to make payment in accordance with this paragraph, he shall be required to pay contributions of an amount equal to $1\frac{1}{2}$ per cent of his remuneration for the time being and such contributions shall be payable as from the material date until either—

- (a) he is no longer entitled to reckon further service under the relevant provisions, or
- (b) he becomes a widower or is divorced or judicially separated from his wife,

whichever first occurs, and the amount of the widow's pension payable under paragraph (1) shall be an amount equal to $1/320$ th of her husband's average remuneration in respect of each year of reckonable service during which he has paid the contributions required under this paragraph and proportionately for any part-year, so, however, that no contribution shall be payable under this paragraph for any period during which contributions are payable under regulation 46(3).

(3) Where an officer has elected to make payment in accordance with this paragraph, he shall be required to do so in accordance with the provisions of Schedule 9 in respect of the whole or any part of the service reckonable by him on the material date under the relevant provisions and the amount of the widow's pension payable under paragraph (1) shall be an amount equal to $1/320$ th of her husband's average remuneration for each year of reckonable service in respect of which he made payment under this paragraph and proportionately for any part-year:

Provided that—

- (i) an officer may not elect to make payment in accordance with this paragraph in respect of any period for which he has previously made payment in accordance with this paragraph or paragraph (2);
- (ii) if an officer whose remuneration is calculated under paragraph 5(3) of Schedule 9 ceases to be an officer during the period therein mentioned his election under this regulation shall be cancelled;
- (iii) an officer shall not continue to make payment in accordance with this paragraph if he becomes a widower or becomes divorced or judicially separated from his wife and in such event the provisions of paragraph (4)(b) shall apply;
- (iv) a transferred officer who became such officer in consequence of the Act of 1973 may not elect to make payment in accordance with this paragraph in respect of any service for which a widow's pension may become payable on his death at the rate of $1/160$ th of his pensionable remuneration;

- (v) a widow's pension calculated in the manner provided in this paragraph shall not be payable to a widow during any period when she is entitled to receive a widow's short-term pension under the provisions of the Local Government Superannuation Regulations 1974.
- (4) Where any payments in accordance with paragraph (3) remain to be made by an officer and at least one payment has been made by him—
- (a) in the event of his becoming entitled under the relevant provisions to a pension payable on account of his being permanently incapable of discharging the duties of his employment by reason of physical or mental infirmity or dying whilst an officer, for the purpose of the said paragraph (3) he shall be deemed to have completed the remaining payments;
- (b) in the event of his ceasing to be an officer in circumstances other than those mentioned in sub-paragraph (a) of this paragraph, the widow's pension which on his death may become payable under this regulation shall be calculated on that proportion of his reckonable service in respect of which he elected to make payment in accordance with the said paragraph (3) as the amount paid bears to the total amount due to be paid, except that if within 6 months of so ceasing to be an officer, or such longer period as the Secretary of State may in any particular case allow, he pays the balance of the total amount due to be paid, such widow's pension shall be calculated on the service in respect of which he elected to make the said payment, so, however, the balance of the total amount due to be paid shall be reduced by the amount added under paragraph 4 of Schedule 9 in respect of the period between the date on which he so ceased to be an officer and the date on which the final payment was due; or
- (c) if sub-paragraph (b) of this paragraph has applied to him and he again becomes an officer, he may within 3 months of becoming such an officer or within such longer period as the Secretary of State may in any particular case allow, make those payments that he would have made had he not ceased to be an officer and unless he does so he shall not continue making payments in accordance with the said paragraph (3).
- (5) In this regulation—
- (a) "remuneration" has the meaning ascribed to it in regulation 3 modified to such extent as the Secretary of State considers appropriate having regard to the relevant provisions;
- (b) "average remuneration" means the average of his remuneration (as defined in the preceding sub-paragraph) calculated in accordance with regulation 36; and
- (c) "material date" means the date on which an officer's election under paragraph (1) is received by his employing authority.

Minimum benefits for certain optants

46.—(1) This regulation shall apply in respect of every officer in contracted-out employment to whom the provisions of regulation 44 or regulation 48 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 36) 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 44 or regulation 48 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 45, a widow's pension might become payable at a rate of not less than 1/160th of his average remuneration (as defined in regulation 36) 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 widow's pension payable in respect of contributions paid under paragraph (3) above shall be at a rate of 1/320th of the officer's average remuneration (determined in accordance with regulation 36) 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), provided that the aggregate widow's pension payable under these regulations in respect of any such period shall be at a rate of not less than 1/160th of the officer's average remuneration in respect of each year of such employment.

(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 40, 56, 60 or 62 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 80 or a relevant provision corresponding to regulation 19.

(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(c) of Schedule 1.

Benefits of officers who did not exercise option to retain previous rights or in whose case options have ceased to have effect

47.—(1) The provisions of this regulation shall apply in the case of any officer—

- (a) to whom regulation 44(2) applies and who does not exercise the option conferred by that paragraph; or

- (b) to whom any provision of the previous regulations corresponding with regulation 44(2) applied, or to whom regulation 22(1) of the 1947 regulations applied, and who did not exercise the option conferred by any of those provisions; or
- (c) who exercised any option mentioned in the preceding provisions of this paragraph but in whose case the option exercised has ceased to have effect:

Provided that this paragraph shall not apply to any person who, immediately before he first became an officer was subject to an enactment or scheme which included a title to a death gratuity among its benefits.

(2) An officer who was transferred under the Act of 1973 to the employment of an employing authority shall, notwithstanding anything in this regulation, receive the same amount (if any) by way of increase in retiring allowance under this regulation as he would have received under the Local Government Superannuation Regulations 1974 had he not been so transferred.

(3) The amount of any retiring allowance payable to any officer to whom paragraph (1) applies shall be increased, in the case of an officer who has not exercised an option, in respect of any period prior to his becoming an officer, or, in the case of an officer who has exercised an option but in whose case the option has ceased to have effect, in respect of any period prior to the date on which the option ceased to have effect, by—

- (i) $1\frac{1}{2}$ per cent in respect of each complete year of the aggregate of his contributing service reckonable in respect of that period; and
- (ii) $\frac{3}{4}$ per cent in respect of each year of his non-contributing service so reckonable, such non-contributing service being calculated by deducting such complete years of contributing service reckonable as in (i) aforesaid, from the aggregate of all his service reckonable in respect of that period, so, however, that if such non-contributing service, as so calculated, includes a fraction of a year, that fraction shall, if it exceeds one half of a year be treated as one complete year, and any other fraction shall be disregarded:

Provided that for the purposes of this regulation, the retiring allowance payable to an officer shall be deemed to be an amount equal to the annual amount of his pension under these regulations, any reduction under regulation 56 being disregarded.

Persons subject to non-statutory superannuation schemes and arrangements

48.—(1) Where before the date of coming into operation of these regulations the Secretary of State was under a liability imposed by regulation 45(1) or (4) of the 1961 regulations to pay the contributions authorised or required by the Federated Superannuation Scheme for Nurses and Hospital Officers to be paid by the employer then, if the officer in respect of whom that liability was incurred, has remained and continues to remain without a break of more than one month at any one time an officer in the employment of any employing authority, the Secretary of State—

- (a) shall pay the contributions authorised or required by the Federated Superannuation Scheme for Nurses and Hospital Officers to be paid by the employer (other than contributions in respect of any policy of insurance taken out under the scheme between 18th March 1946 and the appointed day, or, in the case of a person who has become an officer in consequence of the acquisition of premises by the Secretary of State

under section 58 of the Act of 1946, between such dates as the Secretary of State may have determined) and in that event the officer shall not as such officer be subject to any provisions of these regulations except those contained in this and the next succeeding regulation; and

- (b) may also pay the contributions authorised or required by the said scheme to be paid by the employer in respect of any policy of insurance taken out under the said scheme between 18th March 1946 and the appointed day, or, in the case of a person who has become an officer in consequence of the acquisition of premises by the Secretary of State under section 58 of the Act of 1946, between such other dates as aforesaid.

(2) Where before the date of coming into operation of these regulations the Secretary of State—

- (a) was under a liability imposed by regulation 45(2) or (5) of the 1961 regulations to pay in respect of an officer to whom either of those paragraphs applied the contributions authorised or required by the relevant scheme to be paid by the employer; or

- (b) was carrying out the relevant scheme or arrangements referred to in either of those paragraphs in exercise of the discretion conferred thereby,

then, if the officer in respect of whom that liability was incurred or in respect of whom the Secretary of State was carrying out the relevant scheme or arrangements has remained and continues to remain without a break of more than one month at any one time an officer in the employment of any employing authority, the Secretary of State—

- (i) shall, in the case of an officer to whom sub-paragraph (a) of this paragraph applies, pay the contributions authorised or required by the relevant scheme to be paid by the employer; and

- (ii) may, in the case of a person to whom sub-paragraph (b) of this paragraph applies, carry out the relevant scheme or arrangements,

and in any case in which the Secretary of State is under the liability referred to in sub-paragraph (i) of this paragraph or exercises the discretion conferred by sub-paragraph (ii) of this paragraph, the officer concerned shall not as such officer be subject to any provisions of these regulations except those contained in this and the next succeeding regulation.

(3) Subject to the provisions of the last 2 preceding paragraphs, where a person has before the date of coming into operation of these regulations become an officer, having within 12 months before becoming such officer been participating in the superannuation scheme mentioned in paragraph (1) or any other scheme approved by the Secretary of State for the purposes of this paragraph, then, if the officer so requested the employing authority in writing within 3 months after becoming an officer, the Secretary of State may, if any relevant scheme continues to be administered by a body, subject to such arrangements as he may have made with that body, pay the contributions authorised or required by the scheme to be paid by the employer, and in any case in which any relevant scheme continues to be administered by a body but the Secretary of State has been unable to make arrangements with that body and in any other case the Secretary of State may carry out the relevant scheme or arrangements, and in that event the officer shall not be subject to any provisions of these regulations except those contained in this and the next succeeding regulation:

Provided that this paragraph shall apply only if the person has remained and continues to remain without a break of more than one month at any one time an officer in the employment of any employing authority.

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

1154

(4) Where any person (not being a person to whom regulation 44 applies) becomes an officer of an employing authority in consequence of the acquisition of premises by the Secretary of State under section 58 of the Act of 1946, then, if on such earlier date as the Secretary of State may determine and immediately before becoming an officer he was participating in the superannuation scheme mentioned in paragraph (1), and if the officer so requests the employing authority in writing within 3 months after becoming such officer, the Secretary of State shall, if the person remains without a break of more than one month at any one time an officer in the employment of any employing authority, pay the contributions authorised or required by the scheme to be paid by the employer, other than contributions in respect of any policy of insurance taken out under the scheme between such earlier date as aforesaid and the date of acquisition, and in that event the officer shall not be subject to any provisions of these regulations except those contained in this and the next succeeding regulation, and the Secretary of State may, if he thinks fit, also pay the contributions authorised or required by the scheme to be paid by the employer in respect of any policy of insurance taken out under the scheme after such earlier date as aforesaid:

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

(5) Where any such person as is mentioned in the last preceding paragraph, immediately before becoming an officer, was participating in any superannuation scheme of a similar character to the scheme mentioned in paragraph (1) or was participating or had reasonable expectations of participating in any other scheme or arrangements for the provision of superannuation benefits, then, if the officer so requests the employing authority in writing within 3 months after becoming an officer, the Secretary of State shall consider all the circumstances of the case, including any change which may have occurred on the person's becoming an officer in the emoluments previously enjoyed by him, and if he is satisfied that undue hardship would otherwise result, the Secretary of State shall, if any relevant scheme continues to be administered by a body, subject to such arrangements as he may have made with that body, pay the contributions authorised or required by that scheme to be paid by the employer, and in any case in which any relevant scheme continues to be administered by a body but the Secretary of State has been unable to make arrangements with that body and in any other case the Secretary of State may carry out the relevant scheme or arrangements, and in that event the officer shall not be subject to any provisions of these regulations except those contained in this and the next succeeding regulation:

Provided that this paragraph shall apply only if the person remains without a break of more than one month at any one time an officer in the employment of any employing authority and shall not apply to a person who becomes an officer on or after 6th April 1978.

(6) Subject to the provisions of paragraphs (4) and (5), where a person becomes an officer of an employing authority, having within 12 months before becoming such officer 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, then, if the officer so requests the employing authority in writing within 3 months after becoming an officer or within such longer period as the Secretary of State may in any particular case allow, the Secretary of State may, if any relevant scheme continues to be administered by a body, subject to such arrangements as he may have made with that body, pay the contributions authorised or required

by the scheme to be paid by the employer, and in any case in which any relevant scheme continues to be administered by a body but the Secretary of State has been unable to make arrangements with that body and in any other case the Secretary of State may carry out the relevant scheme or arrangements, and in that event the officer shall not as such officer be subject to any provisions of these regulations except those contained in this and the next succeeding regulation:

Provided that this paragraph shall apply only if the person remains without a break of more than a month at any one time an officer in the employment of any employing authority.

(7) Where in respect of any person contributions are paid by the Secretary of State under the foregoing provisions of this regulation or the Secretary of State carries out any such scheme or arrangements as are referred to in those provisions, the employing authority shall deduct from that person's remuneration the amount of any contributions required by the scheme or under the arrangements to be paid by the employee, and shall pay the same to the Secretary of State, together with the like contributions which they would have paid in respect of that person under regulation 7 but for the provisions of this regulation.

(8) Notwithstanding the preceding provisions of this regulation, where a person—

(a) in consequence of a request made by him to the Secretary of State under this regulation or the corresponding provision of the previous regulations has remained subject to the scheme or other arrangements for the provision of superannuation benefits applicable to him before he became an officer; and

(b) after having become entitled to a benefit under any such scheme or arrangements as aforesaid enters employment in which he is an officer, then, if in that employment—

(i) he cannot become entitled to any further benefit under such scheme or other arrangements as aforesaid; and

(ii) the benefit to which he has become entitled is liable to be reduced or suspended in consequence of his having entered the employment in which he is an officer,

this part of these regulations shall apply to him in that employment as if he had not elected to remain subject to the scheme or other arrangements as aforesaid.

(9) In carrying out any relevant scheme or arrangements under this regulation, the Secretary of State shall do so subject to the modification provided by regulation 46 and 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;

(b) where the benefits under the scheme or arrangements 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;

(c) where the benefits under the scheme or arrangements, or any part of such benefits, are to be paid by the Secretary of State, he may apply, with the necessary changes, the following provisions—

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

1156

- (i) the provisions of regulation 44(7)(d) in any case where the scheme or arrangements provide for any benefit payable to or in respect of a person to be calculated by reference to the annual average of his remuneration over a final period of his service,
 - (ii) the provisions of regulation 44(7)(e) to the widow of a person who dies and who at the time of his death was either entitled to a pension, or was an officer and able to reckon not less than 5 years' reckonable service, or was a person who had ceased to be an officer within 12 months before his death after completing 5 years' reckonable service and not having received a return of contributions or become entitled to any other benefit (including a transfer payment) under these regulations, and whose pension was or would have been calculated by reference to service and the annual average of remuneration over a final period of service,
 - (iii) the remaining provisions of regulation 44(7);
- (d) where the benefits under the scheme or arrangements, or any part of such benefits, are payable by the Secretary of State and any benefit payable thereunder to or in respect of a person is calculated by reference to the annual average of his remuneration over a final period of his service, the Secretary of State may apply, with the necessary changes, the provisions of regulation 45 to a person to whom this regulation applies; and
- (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.

Supplementary payments in the case of certain officers

49.—(1) The provisions of this regulation shall apply in the case of any person who, on being transferred under the Act of 1946, or in consequence of the acquisition of premises by the Secretary of State under section 58 of that Act, became an officer, and who had been engaged, for not less than 10 years prior to his becoming an officer, in employment solely or mainly at or for the purposes of premises which have been transferred to or acquired by the Secretary of State under the Act of 1946:

Provided that if he left any such employment as aforesaid in order to undertake war service or immediately after leaving that employment became engaged in national service and within 6 months after the termination of that service returned to any such employment as aforesaid, the period of that service shall be treated as if it were such employment as aforesaid.

(2) If any person to whom this regulation applies (not being a person to whom regulation 48 applies) was not, immediately before becoming an officer, participating in superannuation benefits, or was so participating otherwise than under the Act of 1909, the Act of 1937 or any local Act scheme, and if on 19th March 1946 (or such later date as the Secretary of State may have determined in the case of a person who became an officer on the acquisition of premises by the Secretary of State as aforesaid), and immediately before becoming an officer, he had reasonable expectations that on his retirement

from his employment or on his death superannuation benefits would become payable to or in respect of him, then, unless those benefits were secured to him as such participant as aforesaid, and on becoming an officer he received some benefit on account thereof, if he—

- (a) holds without a break of more than 12 months at any one time any of the following employments:—
- (i) employment as an officer of any employing authority; or
 - (ii) employment as a person to whom regulation 21(1) of the Local Government Regulations 1954 or regulation 22(1) of those regulations applies; or
 - (iii) in the case of a person who has entered employment in which he is a participant in a health service scheme in respect of whom the Secretary of State has made a transfer payment, employment in the health service of Scotland, of Northern Ireland or the Isle of Man, or pensionable employment on the staff of a health authority or welfare authority constituted under the Public Health and Local Government (Administrative Provisions) Act (Northern Ireland) 1946(a); and
- (b) in the case of a person who became an officer before 1st October 1955, had before that date remained without a break of more than 12 months at any one time a person in any such employment as aforesaid or has remained since that date in the employment in which he was a person to whom Part III or Part IV of the 1950 regulations as amended by the National Health Service (Superannuation) (Amendment) (No. 1) Regulations 1952(b) or Part III or Part IV of the 1947 regulations applied,

then, on or after his ceasing to be an officer, the Secretary of State, with the approval of the Minister for the Civil Service, may make such payments, supplementary to any superannuation benefits which may become payable to or in respect of him, as the Secretary of State considers equitable, having regard to the fact that in the calculation of those superannuation benefits account is not taken of any such employment before he became an officer.

(3) If any person to whom this regulation applies, being also a person to whom regulation 48 applies, had on 19th March 1946 (or such later date as the Secretary of State may have determined in the case of a person who became an officer on the acquisition of premises by the Secretary of State as aforesaid), and immediately before becoming an officer, reasonable expectations that on his retirement from his employment or on his death superannuation benefits, in addition to those secured to him as a participant in any such scheme as is mentioned in regulation 48, would become payable to or in respect of him, then, if he remains, and in the case of a person who became an officer before the date of coming into operation of these regulations has remained, without a break of more than 12 months at any one time, an officer in the employment of any employing authority, on or after his ceasing to be an officer, the Secretary of State may make such payments, supplementary to any superannuation benefits which may become payable to or in respect of him, as the Minister for the Civil Service may approve in respect of such expectations as aforesaid.

(4) For the purposes of paragraphs (2) and (3), a person shall not be treated as having had a break in employment of more than 12 months if—

- (a) he left employment as an officer in order to undertake war service and returned to employment as an officer within 6 months after the termination of that service; or

(a) 1946 c. 19 (N.I.).

(b) S.I. 1952/1263.

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

1158

- (b) he left employment as an officer, immediately thereafter became engaged in national service and returned to employment as an officer within 6 months after the termination of that service; or
- (c) he left employment as an officer in order to enter an approved course of study or training and re-entered employment as an officer without having had a break of more than 12 months since leaving his previous employment (no account being taken of the period of the said course of study or training), or within 6 months after the termination of national service in which he became engaged on completion of that course; or
- (d) he left employment as an officer and—
 - (i) immediately thereafter became engaged in national service;
 - (ii) on the termination of that service entered an approved course of study or training; and
 - (iii) re-entered employment as an officer within 6 months after the termination of his national service (no account being taken of the period of the said course of study or training).

(5) An officer shall not be entitled to have his case considered under this regulation unless within 3 months after the date on which he became an officer, or such longer period as the Secretary of State may in any particular case allow, he furnished the employing authority with a written application for the purpose, and furnished the employing authority or the Secretary of State with such relevant information as may have been required.

Discretionary payments in respect of certain officers

50.—(1) Where by virtue of an option exercised, or which is treated as having been exercised, under these regulations or the previous regulations an officer is, at the time when he ceases to be employed as an officer, entitled to enjoy rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of—

- (a) the Superannuation Acts; or
- (b) the Act of 1909; or
- (c) the Act of 1937,

(whichever of the said enactments or series of enactments was previously applicable in his case) the Secretary of State may, with the approval of the Minister for the Civil Service, on the officer's so ceasing to be employed make such payments to or in respect of him as are referred to in paragraph (2).

(2) The payments to which paragraph (1) refers are—

- (a) in the case of a person entitled to rights corresponding with the rights which he would have enjoyed if he had remained subject to the Superannuation Acts, a gratuity on his death corresponding with the gratuity which the Minister for the Civil Service would have paid under section 39(3) of the Superannuation Act 1949(a) (which relates to payment of gratuities in relation to employment in an unestablished capacity), if he had remained subject to the Superannuation Acts;
- (b) in the case of a woman entitled to rights corresponding with the rights which she would have enjoyed if she had remained subject to the Superannuation Acts, a gratuity to her on her marriage of such amount as the Minister for the Civil Service would have granted if she had remained subject to the Superannuation Acts;

(a) 1949 c. 44; section 39 was repealed by the Superannuation Act 1965 c. 74.

- (c) in the case of a person entitled to rights corresponding with the rights which he would have enjoyed if he had remained subject to the Act of 1909, payments corresponding with any discretionary payments (additional to any payments to which the person would have been entitled as of right in respect of benefits conferred by the Act of 1909) which the Secretary of State considers would have been made to or in respect of the person if the person had remained subject to the Act of 1909; and
- (d) in the case of a person to whom section 16 of the Act of 1937 (which relates to the age of retirement of female nurses and certain other females) applied before she became an officer and who is entitled to rights corresponding with those which she would have enjoyed if she had remained subject to the Act of 1937 as originally enacted, a payment equal to any superannuation contributions paid by her under section 6 of the Act of 1937 (which provides for the payment of contributions by contributory employees) in respect of any period after she attained the age of 60 years.

(3) Where a person who, on being transferred under the Act of 1946, or in consequence of the acquisition of premises by the Secretary of State under section 58 of that Act, became an officer and immediately before becoming an officer was a person employed in an unestablished capacity within the meaning of the Superannuation Acts then, if on or after his ceasing to be employed as an officer—

(a) a benefit is payable to or in respect of him under these regulations but the amount (or, if that benefit is a periodical sum, the capital value) of that benefit after deducting the amount of the officer's contributions is less than the amount of the gratuity which the Minister for the Civil Service would have paid to or in respect of him under section 39(1) or (2) or (2A) of the Superannuation Act 1949 (or under those subsections as applied by section 40 of that Act), if the period of his employment as an officer had been a period of employment in an unestablished capacity within the meaning of the Superannuation Acts; or

(b) no benefit (other than a return of contributions) is payable to or in respect of him under these regulations,

the Secretary of State, with the approval of the Minister for the Civil Service, may pay to or in respect of him an amount equal to the gratuity which the Minister for the Civil Service would have paid to or in respect of him under the aforesaid provisions of the Superannuation Act 1949 if the period of his employment as an officer had been a period of employment in an unestablished capacity within the meaning of the Superannuation Acts:

Provided that in cases where a benefit, other than a return of contributions, is or may become payable to or in respect of a person (otherwise than by virtue of this paragraph), under these regulations there shall be deducted from the aforesaid amount a sum equal to the difference between the amount of the officer's contributions and the amount or, as the case may be, the capital value of that benefit.

(4) Paragraph (3) shall apply to any person who has become an officer by reason of any event mentioned in regulation 2(2) if immediately before the happening of the event he was employed in an unestablished capacity within the meaning of the Superannuation Acts, notwithstanding that he did not immediately thereafter become an officer; and any period of employment by an employing authority immediately prior to becoming an officer shall be treated for the purposes of that paragraph as part of the period of his employment as an officer.

Officers wishing to relinquish options

51.—(1) (a) Subject to the provisions of sub-paragraph (b) below, an officer to whom the provisions of regulation 44, regulation 48 or regulation 79 (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 44 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 44, regulation 48 or regulation 79 (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.

Benefits in case of late entrants

52. Where a person who has become an officer after attaining the age of 35 years is not entitled to reckon any previous employment as service, the Secretary of State may, if satisfied that there are exceptional reasons for so doing, within 6 months after the person's becoming an officer, direct that the length of his service as such officer shall for the purposes of determining whether he is entitled to any benefit under these regulations and of calculating any such benefit be treated as 8/5ths of the actual length thereof:

Provided that—

- (a) no account shall be taken of the service before attaining the age of 40 years of an officer in respect of whom a direction is given; and
- (b) notwithstanding the direction, this regulation shall not have effect so as to prevent or reduce any benefit under these regulations which might have been granted had the direction not been given.

Holders of joint appointments

53. Where one of the holders of a joint appointment under an employing authority ceases to hold his appointment, and the appointment of the other is thereby determined, then that other, if he is an officer to whom this part of these regulations applies, and has attained the age of 50 years and completed 5 years' service, shall be entitled to receive a pension and retiring allowance, calculated in accordance with the provisions of regulation 9:

Provided that this regulation shall not apply in any case where a joint appointment is determined in consequence of the misconduct of one of the holders thereof.

Female Nurses, Physiotherapists, Midwives and Health Visitors

54. These regulations, in their application to females who for the whole of the last 5 years of service are nurses, physiotherapists, midwives or health visitors, shall have effect subject to the modification that in regulation 8(1)(a)(ii) and in regulation 39(1) 55 years shall be substituted for 60 years.

Mental Health Officers

55.—(1) Subject to paragraph (3) these regulations, in their application to any mental health officer who has been employed for an aggregate period of at least 20 years as such an officer or as a person to whom the Act of 1909 applied as an established officer or servant of the first class or as a person to whom the Superannuation (Prison Officers) Act 1919 or section 43 of the Superannuation Act 1949(a) applied, or, if the Secretary of State so directs, as a person subject to a scheme approved by the Secretary of State either under regulation 17(3)(d)(v) of the 1961 regulations or for the purposes of this regulation, shall have effect subject to the following modifications:—

- (a) in regulation 8(1)(a)(ii) and in regulation 39(1), 55 years shall be substituted for 60 years; and
- (b) for the purposes of regulations 7(2), 9, 12(2), 13, 28 and 56(3) and (4), account shall be taken as if it were 2 years of every year in excess of 20 years of contributing service as a mental health officer or of contributing service so reckonable by such an officer by virtue of such employment as aforesaid other than contributing service which has become so reckonable in accordance with paragraph 5 of Part II of Schedule 2:

Provided that in any case in which it would be more advantageous to an officer to whom this paragraph applies or, if he has died, to a person entitled to any benefit in respect of him not to apply sub-paragraph (b) of this paragraph, the provisions of the said sub-paragraph shall not apply to or in respect of him.

(2) Subject to paragraph (3) these regulations, in their application to any mental health officer who has been employed for an aggregate period of at least 20 years as such an officer and before he became such an officer as a person on the staff of a hospital used wholly or partly for the treatment of persons suffering from mental disorder, devoting the whole or substantially the whole of his time to the treatment or care of such persons, shall have effect subject to the following modifications:—

- (a) in regulation 8(1)(a)(ii) and in regulation 39(1), 55 years shall be substituted for 60 years; and
- (b) for the purposes of regulations 7(2), 9, 12(2), 13, 28 and 56(3) and (4) account shall be taken as if it were 2 years of every year of contributing service as a mental health officer rendered after attainment of the age of 50 years, or after the date on which he first became subject to this paragraph or the corresponding provision of the previous regulations whichever is the later:

Provided that, in any case in which it would be more advantageous to an officer to whom this paragraph applies or, if he has died, to a person entitled to any benefit in respect of him not to apply sub-paragraph (b) of this paragraph, the provisions of the said sub-paragraph shall not apply to or in respect of him.

(3) If, but for this paragraph, both paragraphs (1) and (2) would apply to a mental health officer, whichever of the said paragraphs as is more advantageous to the officer, or if he has died, to a person entitled to any benefit in respect of him, shall apply in his case.

(a) 1949 c. 44. Section 43 was repealed by Superannuation Act 1965 c. 74.

(4) In reckoning the aggregate period of a mental health officer's employment for the purpose of this regulation account shall be taken as if it were a period of employment of any period of service which he is entitled to reckon by virtue of the exercise in relation to him of the power conferred by regulation 15(3) of the 1947 regulations.

Modification of benefits and obligations under these regulations in connection with the National Insurance Act 1946

56.—(1) Subject to regulations 21(2) and 44 and the following paragraphs of this regulation, the provisions of these regulations shall apply in respect of service before 1st April 1980 in relation to every officer, subject to the modifications contained in paragraph (2), and in relation to every person in receipt of a pension under these regulations, subject to the modifications contained in paragraph (3).

(2) The amount of the contributions to be paid by an officer under regulation 7 in respect of service before 1st April 1980 shall be reduced at the rate of £3.03 per annum in the case of a man and of a woman who is a nurse, mental health officer, physiotherapist, midwife or health visitor, and at the rate of £3.25 per annum in the case of any other woman:

Provided that—

(a) in the case of a mental health officer who by virtue of regulation 55 is entitled to reckon any year of contributing service as such officer as if it were 2 years, the amount of the reductions for that year shall be doubled; and

(b) in the case of an officer who is a self-employed person within the meaning of the National Insurance Act 1946(a), the amount by which his contributions are to be reduced shall be doubled.

(3) As from the date on which an officer becomes entitled to a pension under these regulations, or, if on becoming entitled to such pension he has not reached pensionable age within the meaning of the National Insurance Act 1946, as from the date on which he reaches that age, the pension shall be reduced in respect of service before 1st April 1980—

(a) if he became an officer before 1st January 1974 and within 12 months after leaving employment in relation to which he was subject to the Teachers Acts or the Teachers' Regulations, the Act of 1937, a local Act scheme or the Act of 1909, as modified by regulations made under section 69(4) of the National Insurance Act 1946 (which relates to the modification of pension schemes in consequence of the passing of that Act), or if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service, and remained an officer until becoming entitled to a pension, without any break of more than 12 months during no part of which he was a contributory employee, local Act contributor, established civil servant or in teaching service and if by virtue of the said regulations or regulations made under section 1 of the Act of 1953 (which authorises regulations to be made as to superannuation benefits for persons who are or have been contributory employees) or a local Act scheme any superannuation allowance to which he might have become entitled under the enactment or scheme to which he was subject as aforesaid would have been reduced by reference to his age at the material date—

(a) 1946 c. 67.

- (i) by the annual sum shown in the appropriate column of the relative table set out in Schedule 3 in relation to an age which corresponds with his age at the material date, for each year of contributing service between that date and 31st March 1980 or in respect of which he paid reduced contributions in pursuance of a scheme (hereinafter called a "pre-existing scheme") made under section 28(3) of the Widows', Orphans' and Old Age Contributory Pensions Act 1936 (which conferred a power to modify existing superannuation schemes), or the corresponding provisions of any Act repealed by that Act; and
 - (ii) by one-half of the said annual sum for each year of non-contributing service between the said date and 31st March 1980;
- (b) if, not being such a person as aforesaid, he became an officer in consequence of the acquisition of premises by the Secretary of State under section 58 of the Act of 1946 before 1st October 1961 or was such a person as is mentioned in paragraph (9), and remained an officer without any break of more than 12 months during no part of which he was a contributory employee, a local Act contributor, civil servant or in teaching service—
- (i) by the annual sum shown in the appropriate column of the relative table set out in Schedule 3 in relation to an age which corresponds with his age at the appointed day or at the date on which he became an officer, whichever was the later, for each year of contributing service between the appointed day, or on and after the date on which he became an officer, whichever was the later and 31st March 1980; and
 - (ii) by one-half of the said annual sum for each year of non-contributing service between the said date and 31st March 1980; and
- (c) in any other case, by the sum of £1.70 per annum for each year of contributing service on and after the appointed day and by the sum of 85 pence for each year of non-contributing service on and after that day:

Provided that—

- (i) for the purposes of sub-paragraph (a) of this paragraph, any period of service as an officer of an employing authority prior to the appointed day shall be disregarded;
- (ii) for the purpose of calculating the amount of any reduction under this paragraph, any period of contributing service which an officer had elected to purchase before 1st April 1980 and which is added to his service by virtue of regulation 25 shall be deemed to be a period of service after the material date or the appointed day, as the case may be, during which he paid contributions reduced under this regulation;
- (iii) if a person, having paid reduced contributions for any period in pursuance of a pre-existing scheme has, in pursuance of that scheme, paid a sum representing the difference between those reduced contributions and the sum he would have contributed had his contributions not been reduced, his service during that period shall not for the purposes of paragraph (3)(a) of this paragraph be treated as service in respect of which reduced contributions were paid;
- (iv) if a person is entitled to reckon any prior period of employment or any period of war service or national service for the purpose of calculating the pension to which he has become entitled, otherwise

- than as provided in Schedule 2 then, if the period so reckonable was a period during which he paid contributions at an unreduced rate, his pension, insofar as it falls to be calculated by reference to that service, shall not be reduced under the provisions of this regulation;
- (v) if a person who enters employment as an officer on or after 1st April 1980 is entitled to reckon a period of contributing service calculated in accordance with Part II of Schedule 2 then his pension insofar as it falls to be calculated by reference to that service shall not be reduced under the provisions of this regulation; and
 - (vi) the total amount of the reduction shall in no case exceed £67.75 per annum.

(4) In the case of an officer who on completing 45 years' contributing service, or 45 years' contributing service and non-contributing service, the non-contributing service being reckoned at half its length, would, if he then ceased to be employed, be entitled to a pension, any further service shall be disregarded for the purposes of paragraph (3), if that paragraph subsequently becomes applicable in relation to him.

(5) Paragraph (1) shall not apply in the case of any person who, in pursuance of section 71(3)(a) of the National Insurance Act 1946 (which contains transitional provisions as to certain classes of persons), is deemed to attain pensionable age within the meaning of that Act on the expiration of 10 years from the appointed day for the purposes of that section.

(6) Where a person is an officer in the part-time employment of 2 or more employing authorities, paragraph (1) shall only apply in relation to him in his employment under that employing authority which is treated as his employer for the purposes of the National Insurance Act 1946.

(7) Where an officer in the part-time employment of one or more employing authorities is also employed in other employment in which he is not entitled to participate in superannuation benefits provided by these regulations, and his employer in that other employment is treated as his employer for the purposes of the National Insurance Act 1946, paragraph (1) shall not apply, and in the event of his subsequently becoming an officer to whom that paragraph applies, no account shall be taken for the purposes of paragraph (3) of his service during the period in which this paragraph applied to him.

(8) Where a person has become an officer—

- (a) before 1st January 1974 and within 12 months after leaving employment in relation to which he was an established civil servant, in teaching service, a contributory employee, a local Act contributor or a person subject to the Act of 1909, or, if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service; and
- (b) was in that employment insured or deemed to be insured under the National Health Insurance Acts 1936 to 1938(a), as amended by the National Health Insurance Contributory Pensions and Workmen's Compensation Act 1941(b) (hereinafter called "the National Health Insurance Acts"), or the Widows', Orphans' and Old Age Contributory Pensions Act 1936, or an insured person for the purposes of the National Insurance Act 1946; and

(a) 1936 c. 32 cited together with 1937 (c. 3), 1937 (c. 24) and 1938 (c. 14) as National Health Insurance Acts 1936-1938.

(b) 1941 c. 39.

- (c) was excepted from the provisions of any regulations made under section 69(4) of the National Insurance Act 1946, modifying the Superannuation Acts, the Teachers Acts, the Act of 1937, a local Act scheme or the Act of 1909,

paragraph (1) shall not apply in relation to that person in any employment in which he is an officer if, since he first became an officer, there has been no period of more than 12 months throughout which he was not an officer of an employing authority, an established civil servant, a contributory employee, local Act contributor or in teaching service:

Provided that if in the employment he has left he was an established civil servant, and if he gave notice in writing to his employing authority within 3 months after the day on which he became an officer or the appointed day, if he became an officer before that date, that he wished paragraph (1), or the corresponding provision of any of the previous regulations, to apply to him, paragraph (1) shall apply in relation to him as from the first day of the month or, in the case of a person in receipt of weekly remuneration, the first day of the week, next following the month or week, as the case may be, in which notice was given, or, in the case of a person who became an officer before the date of coming into operation of these regulations, as from that date.

(9) Where a person was an officer on the appointed day, or where a person was on war service or national service on the appointed day and became an officer within 6 months after the termination of that service, not being in either case a person who had elected that the provisions of any regulations made under section 69(4) of the National Insurance Act 1946, modifying the Teachers Acts, the Act of 1937, any local Act scheme or the Act of 1909, should apply to him in relation to any previous employment in which he was subject to any such enactment or scheme, or had had an opportunity of so electing during a period which had expired, then, unless he gave notice in writing to his employing authority within 3 months after the appointed day or the date of his becoming an officer, as the case may be, that he wished regulation 30(1) of the 1947 regulations to apply in his case, paragraph (1) shall not apply in relation to him, if he has remained and continues to remain an officer without any break of more than 12 months during no part of which he was an established civil servant, in teaching service or a contributory employee or local Act contributor.

(10) If during any period an officer has not paid contributions under these regulations by reason of the fact that the amount of the reduction in his contributions provided for by this regulation equalled or exceeded the amount of his contributions, he shall nevertheless be deemed for the purpose of regulation 29(1)(a) to have made the contributions required by these regulations in respect of that period.

(11) Where a person between 1st August 1949 and 31st December 1973 (both dates inclusive) became an officer within 12 months after leaving such employment as is mentioned in regulation 17(3)(d)(v) of the 1961 regulations, or if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service, or after 31st December 1973 became an officer within 12 months after leaving such employment as is mentioned in regulation 21(3) and in either employment he was an insured person within the meaning of the National Insurance Act 1946, or any corresponding enactment in force in the part of Her Majesty's dominions in which he was employed, then—

- (a) if he had been excepted from the operation of any provision (hereinafter called "the modification provision") of the scheme to which he was subject modifying the benefits provided by the scheme in relation to any such insured person as aforesaid, paragraph (1) shall not apply in relation to him so long as he is an officer without a break of more than 12 months at any one time, reckoned from the time when he left the employment of an employing authority (no account being taken of any period spent on an approved course of study or training which he entered after leaving that employment); and
- (b) if he had not been so excepted—
- (i) the provisions of this regulation shall apply to him as if any service which he is entitled to reckon under these regulations, being service in respect of employment of which account would have been taken under the modification provision for the purpose of reducing any benefit to which the person might have become entitled under the said scheme had he continued to be subject thereto, were contributing service rendered on or after the appointed day; and
 - (ii) if the modification provision modified any benefit to which he might have become entitled under the said scheme by reference to a table and to his age at a given date, this regulation shall have effect as if he were a person to whom paragraph (3)(b) thereof applied, except that the reference therein to his age at a given date shall be construed as a reference to his age at the date which was relevant for the purposes of the modification provision:

Provided that sub-paragraph (b)(ii) of this paragraph shall not apply to any person unless the modification provision, or any corresponding provision modifying the benefits provided by any superannuation scheme to which he was formerly subject in employment which was reckonable as service for the purposes of the scheme applicable to him in such employment as is mentioned in regulation 17(3)(d)(v) of the 1961 regulations, applied to him on or before the appointed day.

(12) For the purposes of paragraphs (3)(a) and (b) and of paragraphs (8) and (9) a person shall not be treated as having had such a break as is therein mentioned if—

- (a) he ceased at any time to be an officer, a contributory employee, a local Act contributor, an established civil servant or in teaching service, in order to undertake war service and re-entered employment in one of those capacities within 6 months after the termination of that service;
- (b) he ceased at any time to be an officer, a contributory employee, a local Act contributor, an established civil servant or in teaching service, immediately after so ceasing became engaged in national service, and re-entered employment in one of those capacities within 6 months after the termination of that service;
- (c) he ceased at any time to be an officer in order to enter an approved course of study or training and re-entered employment as an officer without having had a break of more than 12 months since leaving his previous employment (no account being taken of the period of the said course of study or training), or within 6 months after the termination of national service in which he became engaged on completion of that course; or
- (d) he ceased at any time to be an officer and—
 - (i) immediately thereafter became engaged in national service;

- (ii) on the termination of that service entered an approved course of study or training; and
 - (iii) re-entered employment as an officer within 6 months after the termination of his national service (no account being taken of the period of the said course of study or training).
- (13) In this regulation—
- (a) “the material date” means—
 - (i) in relation to a person to whom paragraph (3)(a) applies (other than a person who was subject to the provisions relating to modification of retirement benefits contained in the Local Government Regulations 1954, or who was subject to corresponding provisions contained in a local Act scheme), the date of which regulations made under section 69(4) of the National Insurance Act 1946, first applied to him; and
 - (ii) in relation to a person to whom paragraph (3)(a) applies and who was subject to the said provisions in the Local Government Regulations 1954, or corresponding provisions contained in a local Act scheme, the material date as defined in paragraph 1(1) of Schedule 3 to the Local Government Regulations 1954, or, as the case may be, the corresponding date prescribed by the relevant local Act scheme; and
 - (b) “superannuation allowance” includes a retirement benefit as defined in regulation 24 of the Local Government Regulations 1954, and any corresponding benefit under a local Act scheme.

Modification of benefits and obligations under these regulations in connection with the Act of 1965

57. These regulations so far as they affect benefits and obligations in connection with the Act of 1965 shall have effect subject to the modifications set out in Schedule 10.

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

58. 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.

Avoidance of duplicate benefits

59. If the Secretary of State is of opinion that any service in respect of which a benefit is payable under these regulations has been or will be taken into account for the purpose of any other benefit which has or may become payable out of public funds, the Secretary of State may make such deduction from the benefit under these regulations as may appear to him to be equitable, in order to secure that there may not be payable in respect of the same service a benefit under these regulations as well as such other benefit as aforesaid.

Benefits not assignable

60.—(1) Subject to paragraph (2) and any statutory provision in that behalf a pension or other benefit to which an officer, or the spouse or dependant of an officer, becomes entitled under these regulations shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable or chargeable with his debts or other liabilities.

(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.

Payments without proof of title

61. Where on the death of any person any sum not exceeding £1,500 is due to or in respect of that person under these regulations, the Secretary of State may dispense with proof of the title of the personal representatives of that person and pay that sum to the personal representatives or to the person, or to or among any one or more of any persons, appearing to the Secretary of State on such evidence as he deems satisfactory to be entitled by law to a beneficial interest therein, or in the case of the illegitimacy of the deceased person or his children to or among such persons as the Secretary of State may think fit, and any persons to whom such a payment is made, and not the Secretary of State, shall thereafter be liable to account for any amount so paid.

Forfeiture of rights

62. The Secretary of State may direct that a person who is or has been an officer shall forfeit the whole or any part of any benefit which would apart from this regulation be payable to or in respect of that person under these regulations where that person has been convicted of an offence committed by him before such benefit becomes payable, being—

- (a) an offence in connection with his employment as an officer which is certified by the Secretary of State either to have been gravely injurious to the State or be liable to lead to serious loss of confidence in the public service, or
- (b) an offence of treason, or
- (c) one or more offences under the Official Secrets Act 1911 to 1939^(a) for which he has been sentenced on the same occasion to a term of imprisonment of, or to 2 or more consecutive terms amounting in the aggregate to, at least 10 years.

(a) 1911 c. 28; 1920 c. 75; 1939 c. 121.

Application to officers formerly employed in hospitals vested in or requisitioned by the Crown

63. For the purposes of these regulations a person who immediately before the appointed day was solely or mainly employed at or for the purposes of any hospital which would have been transferred to the Secretary of State by virtue of the Act of 1946, but for the fact that the hospital or any interest therein was vested in or requisitioned by the Crown shall, if he became on the appointed day an employee of any employing authority, be treated as if he had been transferred under the Act of 1946, and employment at or for the purposes of any such hospital shall be treated as if it were employment at or for the purposes of a hospital transferred to the Secretary of State under the Act of 1946.

Application to officers formerly employed in the Blood Transfusion Service

64. For the purposes of these regulations, a person who entered the employment of an employing authority on the appointed day, having immediately before that day been in employment under the Crown in the Blood Transfusion Service, shall be deemed to have been transferred under the Act of 1946 to the employment of the employing authority, and the said employment under the Crown and any previous employment in the Blood Transfusion Service shall be deemed to be employment under a body from which functions were transferred by the Act of 1946.

Application to officers on the staff of special hospitals

65. These regulations shall apply to a person employed on the staff of a special hospital provided or deemed to be provided by the Secretary of State under Part VII of the Mental Health Act 1959(a) (other than a person engaged wholly or mainly on clerical duties) as if the Secretary of State were an employing authority and in the case of a person transferred or who was deemed to have been transferred under the Act of 1946, as if he had been transferred under that Act to the employment of an employing authority at the date on which he was so transferred or was deemed to have been so transferred and as if his former employment had been employment under an authority or body from which functions were transferred by the Act of 1946, and the scheme established under section 1 of the Act of 1972 shall not apply to any such person.

Accounts and actuarial investigations

66.—(1) The Secretary of State shall keep an account in such form and prepared in such manner as the Minister for the Civil Service may approve of all revenue received and expenditure incurred by the Secretary of State under these regulations.

(2) The said account shall be subject to examination by the Comptroller and Auditor General.

(3) As at the expiration of every period of 5 years after 31st March 1969 there shall be an actuarial investigation by the Government Actuary of the assets and liabilities of the Secretary of State in respect of the benefits provided by the Secretary of State under these regulations, and the Government Actuary shall submit to the Secretary of State and to the Minister for the Civil Service a report of every such investigation.

(a) 1959 c. 72.

PART III

PROVISIONS RELATING TO MEDICAL AND DENTAL PRACTITIONERS

Application of regulations with modifications

67. 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 Area Health Authority and he shall not be regarded as having ceased to be such an officer whilst he remains on a list of at least one Family Practitioner Committee.

Amendment of certain references to age

68. In relation to a practitioner—

(1) for regulation 7(2) there shall be substituted the following paragraph, namely—

“(2) The reference in paragraph (1), in the definition of “service” contained in regulation 3 and in regulation 36(1) to an officer mentioned in this paragraph is a reference to a practitioner who has attained the age of 65 years or such later age as the Secretary of State may in any particular case allow.”.

(2) For regulation 12(2)(a) and (b), there shall be substituted the following provision, namely—

“the age of 65 years or such later age as the Secretary of State may in any particular case allow.”.

(3) For paragraph 9(3) of Schedule 1, there shall be substituted the following provision, namely—

“(3) The reference in sub-paragraph (1) of this paragraph to an officer mentioned in this paragraph is a reference to a practitioner who has attained the age of 65 years or such later age as the Secretary of State may in any particular case allow.”.

Meaning of “remuneration”

69.—(1) The following provisions of this regulation shall apply in the case of a practitioner other than an assistant practitioner in place of the definition of “remuneration” contained in regulation 3.

(2) In the case of a practitioner other than an assistant practitioner “remuneration” means—

- (i) all payments made by a Family Practitioner Committee or an Area Health Authority to the practitioner in respect of general medical services, general dental services, general ophthalmic services or pharmaceutical services provided by him, including any payments so made to him as a trainer in general practice,
- (ii) any charge made to a patient in respect of those services which the practitioner is authorised by or under any enactment to retain, other than a charge authorised by regulations made under section 81(b) of the Act of 1977, and
- (iii) any sums paid to the practitioner out of a fund determined by reference to the number of beds in a hospital,

less such sum on account of practice expenses as may be appropriate in accordance with a formula laid down by the Secretary of State for the purpose and less the remuneration approved by the Secretary of State of any assistant practitioner in his employment:

Provided that—

- (a) if the practitioner is a dental practitioner and is a party with any other practitioner or practitioners to a partnership agreement then, if such practitioners give notice in writing to the Family Practitioner Committee by whom they wish action to be taken under this proviso stating that for the purposes of these regulations they wish their total remuneration to be allocated between them in the manner provided by this proviso, their total remuneration as practitioners on the list of that Committee shall, for the purposes of these regulations and in respect of a period during which the notice is effective, be allocated between them on the basis of their shares in the partnership profits and accordingly in respect of any such period as aforesaid the remuneration of each of them shall be deemed to be such proportion of the total remuneration of such practitioner as the proportion of his share in the partnership profits bears to the total proportion of the shares of such practitioners in those profits;
- (b) if the practitioner is a medical practitioner and is a party with any other practitioner or practitioners to a partnership agreement then—
- (i) if such practitioners give notice in writing to the responsible Committee stating that for the purposes of these regulations they wish their total remuneration to be allocated between them in the manner provided by this paragraph of this proviso, their total remuneration as practitioners on the list of that Committee and of any other Family Practitioner Committee on whose list the name of one or more members of the partnership is included shall, for the purposes of these regulations and in respect of a period during which the notice is effective, be allocated between them on the basis of their shares in the partnership profits and accordingly in respect of any such period as aforesaid the remuneration of each of them shall be deemed to be such proportion of the total remuneration of such practitioners as the proportion of his share in the partnership profits bears to the total proportion of the shares of such practitioners in those profits;
- (ii) if such practitioners give notice in writing to the responsible Committee stating that for the purposes of these regulations they wish their total remuneration to be allocated between them in the manner provided by this paragraph of this proviso, their total remuneration as practitioners on the list of that Committee and of any other Family Practitioner Committee on whose list the name of one or more members of the partnership is included shall, for the purposes of these regulations and in respect of a period during which the notice is effective, be allocated between them by the responsible Committee in such proportions as will ensure that their aggregate superannuable remuneration (as defined in paragraph (8)) in respect of that period is, for the purposes of these regulations and so far as is reasonably practicable, divided fairly between them having regard to their shares in the partnership profits; and the sum allocated by the Committee to each practitioner shall be deemed to be his remuneration for the purposes of these Regulations;
- (iii) if such practitioners gave notice under proviso (b)(iii) of regulation 64(2) of the 1961 regulations that they wished that paragraph of the proviso to apply in their case, then so long as the notice remains effective they shall be treated for the purposes of this paragraph as if they were not in partnership;

- (iv) except while any notice mentioned in one of the preceding provisions of this proviso is effective the total remuneration of the practitioners as practitioners on the list of the Family Practitioner Committee and of any other Family Practitioner Committee on whose list the name of one or more members of the partnership is included shall be allocated between them, for the purposes of these regulations, in equal shares and the share so allocated to each shall be deemed to be his remuneration for the purposes of these regulations;
- (c) if the practitioner is simultaneously employed as an officer of an employing authority or a local authority or a university or as a civil servant or in any other such employment as the Secretary of State may in any particular case allow, and as a term or condition of that employment he is required to account to his employer for all or any part of his remuneration received by him as a practitioner, that remuneration shall not be treated as remuneration within the meaning of the foregoing definition;
- (d) no account shall be taken of any remuneration of a dental practitioner or of the total remuneration of such a practitioner from more than one Executive Council or Family Practitioner Committee—
- (i) in excess of £3,500 in any financial year ending on or after 31st March 1951 and on or before 31st March 1966, or
 - (ii) in excess of £6,000 in any financial year ending on or after 31st March 1967 and on or before 31st March 1972; or
 - (iii) in excess of £10,000 in any financial year ending on or after 31st March 1973 but ending not later than 31st March 1975; or
 - (iv) in excess of such amount (if any) in any financial year commencing after 31st March 1975 as the Secretary of State may specify;
- (e) the remuneration of a dental practitioner employed by persons carrying on the business of dentistry of a deceased practitioner shall not exceed the amount of the sums paid to him by those persons and the sums paid to him by a Family Practitioner Committee which he is permitted by those persons to retain; and
- (f) any sum withheld or otherwise recovered from a practitioner under the National Health Service (Service Committees and Tribunal) Regulations 1974(a) shall be excluded or deducted from the amount which is, or is deemed to be, his remuneration under this paragraph in such manner and to such extent as the Secretary of State may approve.
- (3) A notice given under proviso (a) or proviso (b)(i) or (ii) to paragraph (2)—
- (a) shall be signed by all the practitioners who are members of the partnership to which it relates, and unless so signed shall be of no effect;
 - (b) shall state as a fraction the share of each practitioner in the partnership profits; and
 - (c) may be cancelled or amended by a subsequent notice signed as aforesaid.
- (4) A notice given under proviso (b)(i) or (ii) to paragraph (2) shall also—
- (a) state the name of every Family Practitioner Committee on whose list the name of one or more members of the partnership is included; and

(b) if it is given under paragraph (ii) of the said proviso—

- (i) state in respect of every practitioner who is a member of the partnership and employed by an employing authority otherwise than as a practitioner the name of the employing authority and the remuneration (as defined in regulation 3) payable to him by that authority; and
- (ii) include an undertaking by the practitioners to give notice in writing to the responsible Committee at the end of each quarter stating the remuneration (as defined in regulation 3) paid in that quarter in respect of employment with an employing authority otherwise than as a practitioner to any such member of the partnership as is referred to in sub-paragraph (b)(i) of this paragraph.

(5) A notice mentioned in proviso (b)(iii) to paragraph (2) may be cancelled by a subsequent notice signed by all the practitioners who are members of the partnership to which it relates.

(6) A notice given under proviso (a) or proviso (b) to paragraph (2), and a notice given under paragraph (3)(c) or under paragraph (5) shall, if it complies with the preceding provisions of this regulation, be effective from such date as may be agreed between the practitioner by whom it was given and the Family Practitioner Committee or as may, in default of agreement, be determined by the Secretary of State; and any such notice as aforesaid given under proviso (a) or proviso (b) to paragraph (2) shall, so long as the partnership subsists, and subject to any amendment made in accordance with the preceding provisions of this regulation, remain effective until it is cancelled.

(7) Notwithstanding anything in the preceding provisions of this regulation, notice of assent given, or having effect as if given, by practitioners under proviso (a) or under proviso (b)(i) or (ii) of regulation 64(2) of the 1961 regulations shall have effect from the date of coming into operation of these regulations as if it were a notice given under proviso (a) or, as the case may be, under proviso (b)(i) or (ii) to paragraph (2); and accordingly references in the preceding provisions of this regulation to a notice given under proviso (a) or proviso (b) of paragraph (2) shall be construed as including a reference to any such notice of assent.

(8) In this regulation—

(a) “aggregate superannuable remuneration” means the total of—

- (i) all remuneration paid to any member or members of the partnership in respect of employment as a practitioner on the list of a Family Practitioner Committee; and
- (ii) all remuneration (as defined in regulation 3) notified by such practitioners to the responsible Committee as having been paid to any member or members of the partnership in respect of employment as an officer under any employing authority otherwise than as a practitioner;

(b) “responsible Committee” means, in the case of a partnership whose members are on the list of a single Family Practitioner Committee, that Committee, and in the case of a partnership one or more of whose members is on the list of more than one Family Practitioner Committee, the Committee which under the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974(a), is responsible for assembling information about the total number of persons on the lists of the practitioner or practitioners concerned.

(9) For the purposes of these regulations the remuneration of a practitioner in respect of his service as a practitioner during part of a financial year shall be the same proportion of his remuneration in respect of his service as a practitioner during the whole of that year as his service as a practitioner during such part of a year bears to his service as a practitioner during the whole of that year.

Amendments with respect to contributions, etc.

70.—(1) If the practitioner made contributions during any period in accordance with regulation 7(3) or the corresponding provision of the previous regulations the remuneration on which he so made contributions shall be deemed to have been his remuneration in respect of that period.

(2) If a practitioner's remuneration is reduced or suspended by reason of absence due to illness or injury then, except for the purposes of the provisions of these regulations relating to the payment of contributions—

(a) if the practitioner is practising in partnership and the total remuneration is allocated under proviso (a) or (b) to regulation 69(2), the total remuneration of the partners shall be deemed to have remained at the same rate as during the preceding 12 months; or

(b) in any other case the practitioner shall be deemed to have continued to receive the same average rate of remuneration as he received during the preceding 12 months:

Provided that if any such reduction or suspension continued for a longer period than 12 months, this paragraph shall apply only in respect of the period of 12 months immediately following the reduction or suspension.

(3) A practitioner to whom paragraph (2) applies for any period by reason of the suspension of his remuneration shall be deemed for the purposes of regulation 29(1)(a) to have made the contributions required by these regulations in respect of that period and regulation 22 shall not apply to such a practitioner until the end of that period.

(4) Where a practitioner has become engaged in national service without having ceased to be a practitioner within the meaning of these regulations and his average rate of remuneration as a practitioner during the period of his national service is less than his average rate of remuneration during the 12 months prior to his having become engaged in national service, he shall be treated for the purposes of these regulations as if during the period of his national service he was receiving such higher average rate of remuneration as aforesaid.

(5) Where a person became engaged in national service after ceasing to be a practitioner within the meaning of these regulations, and the period of his national service falls to be treated as service as a practitioner under these regulations subject to his compliance with the provisions of regulation 7(6), he shall be deemed to have continued to receive during that period the same average rate of remuneration as he received during the 12 months prior to his ceasing to be a practitioner as aforesaid.

Rate of pension for a practitioner

71.—(1) Subject to paragraph (3) of this regulation, the pension to be paid to a practitioner shall, subject to the provisions of these regulations—

(a) in respect of his service as a practitioner, be at the rate set out in paragraph (2), and

(b) in respect of any service otherwise than as a practitioner, be at the rate set out in regulation 9(1).

(2) 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 paragraph—

(a) subject to regulations 72 and 75(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;

(b) 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, and

(c) in a case where any payment 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 then, if the Secretary of State considers it appropriate, the withholding or deferment shall be deemed not to have taken place.

(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) in respect of such contracted-out employment.

Prior service to be treated as practitioner service

72.—(1) Subject to paragraph (2), where any person on first becoming a practitioner other than an assistant practitioner is entitled to reckon 10 years or less of contributing service otherwise than as a practitioner such service shall 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.

(2) This regulation shall not have the effect in respect of a person who first became a practitioner, other than an assistant practitioner, before 31st March 1977, of reducing the benefits which he would have received had the calculation been made under the corresponding provision as it applied immediately before that date.

Employment as an officer and as a practitioner

73.—(1) 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, except where regulation 72 applies, be treated as service as a practitioner.

(2) Where the service otherwise than as a practitioner mentioned in paragraph (1) is reckonable under regulation 21(3), the remuneration in respect of it shall be deemed to be remuneration at the annual rate of pensionable pay by reference to which the contributing service was calculated under Schedule 2.

Treatment of national service in certain cases

74. If a practitioner has undertaken national service and that service is reckonable as a period of service under these regulations by virtue of regulation 21(2) of the 1961 regulations (a) such service shall be treated as if it were service as a practitioner.

Reckoning of practitioner service and remuneration

75.—(1) In order to determine the total service as a practitioner all periods of service as a practitioner shall be aggregated, and where 2 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 shorter 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 longer of the following—
 - (i) whichever is the shorter 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 shorter 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), 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 paragraph (3), the total uprated remuneration as a practitioner shall be increased by the same proportion as the service as a practitioner is increased.

Further employment not to be taken into account for reduction of pension in certain cases

76. For the purposes of regulation 40 further employment as a practitioner between the ages of 65 and 70 years in the case of a person who became entitled to a pension as a practitioner on or after attaining the age of 65 years shall be disregarded.

Further modifications with respect to assistant practitioners

77. These regulations, in their application in manner hereinbefore provided to an assistant practitioner, shall have effect subject to the following further modifications:—

(a) Revoked by regulation 19 of S.I. 1975/1292.

- (a) for the definition of "remuneration" in regulation 3 there shall be substituted the following definition—

" 'remuneration' means the whole or such part as the Secretary of State may approve of all salary, wages, fees and other payments paid or made to an assistant practitioner as such for his own use, including the money value of any apartments, rations or other allowances in kind appertaining to his employment, but not including payments for overtime or any allowances paid to him to cover the cost of providing office or laboratory accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment";

- (b) the practitioner by whom he is employed shall be deemed to be the employing authority for the purposes of regulation 7(4) but for no other purpose and shall remit the assistant practitioner's contributions to the Area Health Authority after they have been obtained from him.

Modifications relating to certain part-time specialists

78.—(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 as a specialist occupying substantially the whole of his time, 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) as is attributable to contributing service in respect of any period of part-time employment as a specialist occupying substantially the whole of his time, 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 3 years of such aggregate service.

Continuation of contracts or policies of insurance in certain cases

79.—(1) Where immediately before 1st October 1955, the Secretary of State was under a liability imposed by regulation 46(3)(m) of the 1950 regulations to pay to a practitioner as a contribution towards the maintenance of a contract or policy of insurance held by that practitioner with any of the Life Assurance Companies an amount equal to 8 per cent of the practitioner's remuneration, the Secretary of State shall, subject to such terms and conditions as he may have determined, continue to pay to the practitioner, so long as he remains a practitioner, as a contribution towards the maintenance of the aforesaid contract or policy an amount equal to 8 per cent of the practitioner's remuneration and the practitioner, so long as he remains a practitioner, shall not be subject to any of the provisions of these regulations except this provision.

In this paragraph "remuneration"—

- (a) in relation to a practitioner other than a part-time specialist means his remuneration as defined in regulation 69 except that no account shall be taken of payments in respect of general ophthalmic services;
- (b) in relation to a part-time specialist has the meaning assigned to it by regulation 3; and
- (c) in relation to an assistant practitioner has the meaning assigned to it by paragraph (a) of regulation 77.

(2) The Secretary of State may, on application being made to him before 1st July 1974 by an ophthalmic medical practitioner who, on 31st March 1974, was on the list of an Executive Council and held a contract or policy of insurance with any of the Life Assurance Companies, agree that these regulations, with the exception of this regulation, shall not apply to that practitioner as an ophthalmic medical practitioner in which event the Secretary of State shall, subject to such terms and conditions as he may determine, pay to such practitioner as a contribution towards the maintenance of the aforesaid contract or policy an amount equal to 8 per cent of the practitioner's remuneration (as defined in regulation 69) in respect of general ophthalmic services.

(3) Paragraphs (1) and (2) shall, if the Secretary of State consents and subject to such additional terms and conditions as he may determine, also apply to any annuity contract approved under section 226 of the Income and Corporation Taxes Act 1970(a) entered into in substitution for the contract or policy mentioned in paragraphs (1) or (2), or in further substitution for such annuity contract which has been substituted by virtue of this paragraph or any corresponding provision of these regulations previously in force, as the case may be.

(4) For the purposes of paragraph (1) the term "practitioner" includes a part-time specialist.

(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) an amount equal to 14 per cent of the remuneration so withheld or deferred.

PART IV MISCELLANEOUS

Rights on transfer to other employment

80.—(1) Subject to paragraph (3), where a person has left employment in which he was an officer (hereinafter referred to as his "old employment") and has taken up employment in which he participates in a superannuation scheme (hereinafter referred to as his "new employment") which has been approved for the purpose of this paragraph by the Board of Inland Revenue, then if—

- (a) he is a person to whom the provisions of regulation 8(1)(a)(iv) apply, or he has taken up his new employment within 12 months or within such longer period as the Secretary of State may in any particular case allow after leaving his old employment;

(a) 1970 c. 10; section 226 has been variously amended.

- (b) he has within 6 months after taking up his new employment or within such longer period as the Secretary of State may in any particular case allow given written notice to the body administering that scheme that he wishes that body to apply to the Secretary of State for a transfer payment;
- (c) no benefit under these regulations has been paid to him in respect of his old employment (except for a return of contributions in a case to which sub-paragraph (d) applies);
- (d) in a case where he is subject to a health service scheme in his new employment and he has within 6 months of entering the new employment or within such longer period as the Secretary of State may in any particular case allow, repaid to the Secretary of State an amount equal to any sum paid to him by way of return of contributions together with an amount equal to any income tax which was deducted from his contributions in respect of such payment (not being a deduction under regulation 37(3)); and
- (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 has been paid, 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,

the Secretary of State shall, if the body administering that scheme so agrees, pay to that body a transfer payment calculated in accordance with Part I of Schedule 2, or such other amount as may be agreed with the body administering that scheme.

(2) 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.

(3) Where a body administering a superannuation scheme waives payment of the transfer payment which would otherwise have been made by the Secretary of State such a payment will be deemed to have been made for the purposes of this regulation, regulation 49(2) and regulation 66.

(4) Notwithstanding the provisions of these regulations other than the provisions of regulation 8(1)(a)(iii) and regulation 81 no other benefit shall be paid under these regulations in respect of service for which a transfer payment has been made or deemed to have been made under this regulation.

Persons transferred to the Federated Superannuation Scheme for Nurses and Hospital Officers before 6th April 1975

81.—(1) Where a person who ceased to be employed as an officer before 6th April 1975 and in respect of whom a transfer payment under the provisions of the previous regulations corresponding to regulation 80(1) has been made to the body administering the Federated Superannuation Scheme for Nurses and Hospital Officers, ceases to participate in that scheme in circumstances in which he becomes entitled to a benefit which is based solely on his contributions, that body shall pay to the Secretary of State a sum equal to the transfer payment

and the Secretary of State shall pay to that person a sum equal to the amount which would have been paid to him by way of return of contributions on his ceasing to be an officer if the transfer payment had not been made.

(2) If within 12 months of ceasing to participate in the Federated Superannuation Scheme for Nurses and Hospital Officers and within 5 years after ceasing to be employed as an officer by an employing authority, a person mentioned in paragraph (1) again becomes an officer to whom Part II of these regulations applies, he shall be entitled, if he pays or repays to the Secretary of State any sum paid to him by the Secretary of State under the said paragraph (1), together with an amount equal to any income tax which was deducted in respect of such payment (not being a deduction under regulation 37(3)), to reckon as service, in relation to the employment in which he is an officer, all periods of employment, war service or national service which he was so entitled to reckon in relation to his employment under the former employing authority immediately before the date on which he ceased to be employed by them, and as contributing service any period of national service after so ceasing to be employed.

(3) Where a person who ceased to be employed as an officer before 6th April 1975 and in respect of whom a transfer payment under the provisions of the previous regulations corresponding to regulation 80(1) has been made to the body administering the Federated Superannuation Scheme for Nurses and Hospital Officers—

- (a) leaves the employment in which he is a participant in that scheme in circumstances other than those in which paragraph (1) applies; and
- (b) within 12 months after leaving that employment and within 5 years after ceasing to be employed as an officer again enters employment in which he is an officer; and
- (c) within 3 months after entering the last-mentioned employment or within such longer period as the Secretary of State may in any particular case allow notifies the employing authority by whom he is employed in that employment that he desires the provisions of this paragraph to apply to him,

then if the body administering the scheme pays to the Secretary of State a sum equal to the transfer payment, that person shall be entitled to reckon such service as he would have been entitled to reckon if there had been no break between his ceasing to be an officer and his again becoming an officer as aforesaid.

Provisions relating to approved employment

82.—(1) Where a person (other than a person who is entitled to benefits under regulation 8(1)(a)(iv)), having left employment in which he was an officer or employment to which this regulation applies without having become entitled to any benefit under these regulations other than a return of contributions, has within 12 months, or such longer period as the Secretary of State may in any particular case allow, of leaving such employment, entered employment in which he is not entitled to reckon his service under these regulations for the purpose of participating in any superannuation benefits, otherwise than for the sole purpose of determining whether any such benefits are payable, he may (unless he is a person to whom regulation 80(1) of these regulations or the corresponding provision of the previous regulations has been applied) apply to the Secretary

of State within 3 months after entering that employment, or within such longer period as the Secretary of State may in any particular case allow, to approve the employment for the purposes of this paragraph, and if the employment is so approved the provisions of paragraph (2) shall apply in relation to the person by whom the application under this paragraph was made:

Provided that this paragraph shall not apply in relation to any person who has not within the said period of 3 months, or within such longer period as the Secretary of State may in any particular case allow, repaid to the Secretary of State an amount equal to any sum paid to him by way of return of contributions on or after leaving the employment in which he was an officer together with an amount equal to any income tax which was deducted from his contributions in respect of such payment (not being a deduction under regulation 37(3)).

(2) Where under paragraph (1) a person's employment has been approved in pursuance of an application made, or having effect as if made, by him under that paragraph and that person has not given notice under paragraph (4), then—

- (a) if he ceases to hold that employment or any subsequent employment approved (on his application) by the Secretary of State for the purposes of this paragraph in such circumstances, including that of his age, as had they obtained when he left the employment in which he was an officer, would have entitled him to any benefit under these regulations, the Secretary of State may grant him that benefit, as from the date on which he ceases to hold the approved employment, calculated as if he had become entitled to that benefit at the date on which he left the employment in which he was an officer;
- (b) if he ceases to hold that employment or any subsequent employment approved (on his application) by the Secretary of State for the purposes of this paragraph and by reason of his age he does not qualify for a benefit under the provisions of the last preceding sub-paragraph but becomes entitled to a pension under any pension scheme applicable to him in that employment, the Secretary of State may grant to him, as from the date on which he ceased to hold that employment, a benefit equal to the benefit to which he would have become entitled under these regulations on ceasing to hold the employment in which he was an officer, if at the date on which he ceased to hold the employment in which he was an officer he had attained the age of 65 years and had been entitled for the purpose of determining whether any such benefit was payable to him to aggregate with his service for the purposes thereof a period of service equal in length to the period of his approved employment;
- (c) if he dies while in approved employment, the Secretary of State may grant the like benefits (if any) by way of widow's or widower's pension, child's allowance, limited pension under regulations 16, 17 and 18 and death gratuity as would have been granted under these regulations if he had died immediately before he ceased to hold the employment in which he was an officer; or
- (d) if within 12 months after ceasing to hold approved employment he again becomes an officer to whom Part II of these regulations applies he shall, if he repays to the Secretary of State a sum equal to the amount (if any) paid to him by way of return of contributions on or after ceasing to hold the approved employment, be entitled to reckon as service, contributing service and non-contributing service respectively, all periods of employment, war service or national service, which he was so entitled to reckon immediately before he left the employment in which he was formerly an officer, and

- (i) he shall be entitled to reckon the period of his approved employment for the purpose of determining whether any benefit is payable to him under these regulations; and
- (ii) if in his approved employment he devoted the whole or substantially the whole of his time to the treatment or care of persons suffering from mental disorder he shall be entitled to reckon the period of that employment for the purpose of assessing the period of 20 years mentioned in regulation 55(2),

but not for any other purpose:

Provided that—

- (i) where a benefit is granted by the Secretary of State under sub-paragraph (b) of this paragraph, that benefit shall either be reduced, according to the age of the person to whom it is payable, by the percentage shown in the appropriate column of the table set out in Schedule 4, or shall not become payable until the person attains such an age as would have entitled him to a similar benefit under sub-paragraph (a) of this paragraph, but any such reduction shall be disregarded in the calculation of any widow's pension which may become payable in respect of the person;
- (ii) where on 1st October 1972 a person was in employment which was approved under regulation 79 of the 1961 regulations (a), and from that date he became entitled to benefits under regulation 8(1)(a)(iv) of the 1961 regulations, the Secretary of State may, if that person does not again become an officer, grant him benefits under the said sub-paragraph (a) or (b) in lieu of the benefits provided under the said regulation 8(1)(a)(iv);
- (iii) in reckoning the period of 12 months referred to in sub-paragraph (d) of this paragraph no account shall be taken of any period spent on an approved course of study or training.

(3) The provisions of paragraph (2) shall apply in relation to a person who, after leaving employment in which he was an officer, entered employment which was approved on his application under the corresponding provision of the previous regulations as they apply in relation to a person whose employment has been approved under paragraph (1):

Provided that in relation to a person who, at the time when he left the employment in which he was an officer, was subject to the previous regulations, references in paragraph (2) to these regulations shall be construed as references to the regulations to which he was subject at that time.

(4) No payment shall be made by way of return of contributions to any person who has entered employment in which paragraph (2) has become applicable to him unless and until he either—

- (a) ceases to hold that employment in circumstances in which he does not become entitled to any benefit under these regulations; or
- (b) gives notice to the Secretary of State that he wishes this regulation to cease to apply in respect of him from the date of that notice.

(a) The relevant amending instruments are S.I. 1966/1523, S.I. 1972/1537, S.I. 1973/1649.

(5) The foregoing provisions of this regulation shall apply to a person who ceases to be subject to a direction of the Secretary of State made in pursuance of section 7 of the Superannuation (Miscellaneous Provisions) Act 1967, without having ceased to hold the employment in which he was so subject as it applies to a person mentioned in paragraph (1).

Provisions relating to contributions on a former higher rate of remuneration

83.—(1) Subject to paragraph (2), where immediately before 27th August 1975 an officer was making contributions under regulation 7(5) of the 1961 regulations (a), or under a corresponding provision of the relevant provisions, the said regulation 7(5) or corresponding provision shall cease to apply to him as from 27th August 1975 and in lieu thereof as from that date he shall be entitled to benefits under regulation 8(1)(a)(v) as though the requirements of that regulation were satisfied.

(2) Regulation 7(5) of the 1961 regulations, or a corresponding provision of the relevant provisions shall continue to apply as if these regulations had not been made in the case of an officer who at 27th August 1975 was within 12 months of attaining or had attained an age at which he might have become entitled to a pension under regulation 8(1)(a)(ii) and who gave notice in writing to his employing authority within 3 months of that date, or within such longer period as the Secretary of State may in any particular case have allowed, that he wished to continue making contributions under the said regulation 7(5) or corresponding provision.

(3) Where an officer, other than an officer to whom the provisions of regulation 44 apply, was transferred to the employment of an employing authority under the Act of 1973 and immediately before transfer he was making contributions in accordance with section 6(5) of the Act of 1937 or a corresponding provision of a local Act scheme, he shall be entitled to benefits under regulation 8(1)(a)(v) in respect of the service reckonable by him immediately before he was so transferred.

Declaration of entitlement

84. The Secretary of State or a person acting on his behalf may as a condition of paying any benefit under these regulations require a person claiming or receiving such benefit to furnish such declaration as to his entitlement to that benefit as the Secretary of State may at any time require.

Determination of questions

85. Any question arising under these regulations as to the rights or liabilities of an officer or retired officer, or of a person claiming to be treated as such, or of the widow, any dependant or the personal representatives of an officer or retired officer shall be determined by the Secretary of State and his decision thereon shall be final.

Revocation and general savings

86. (1) The regulations specified in column (1) of Schedule 12 to these regulations are hereby revoked to the extent mentioned in column 3 of that schedule.

(a) S.I. 1961/1441, the relevant amending instrument is S.I. 1966/1523.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provision of these regulations and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

4th March 1980. *Patrick Jenkin,*
Secretary of State for Social Services.

Consent of the Minister for the Civil Service given under her official seal on 6th March 1980.

(L.S.) *T. A. A. Hart,*
Authorised by the Minister for the Civil Service.

SCHEDULES

Regulation 12

SCHEDULE 1

ALLOCATION OF PART OF PENSION

1. A person shall not surrender—
 - (a) more than one-third of the pension to which he is entitled (or, in the case of a person to whom regulation 12(2) applies, of the pension to which he would be entitled if he ceased to be employed) or, in a case in which regulation 56 applies, the pension to which he would be entitled apart from the provisions of that regulation;
 - (b) any such part as would make the amount of the reduced pension which is or may become payable to him less than the amount of the pension which might become payable to the person in whose favour the allocation is made (hereinafter referred to as the “beneficiary”);
 - (c) any such part as would make the amount of his reduced pension, apart from the provisions of regulation 56, 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 in paragraph 11 of Schedule 10;
 - (d) a smaller part than would secure for the beneficiary a pension of £39 per annum; or
 - (e) any part which is not an exact number of pounds.
2. The amount of pension payable in return for each £1 of a pension surrendered by a person shall be the amount shown in the Tables in force at the date on which the person becomes or is deemed to have become entitled to the pension which is appropriate to the age and sex of the beneficiary.
- 3.—(1) Upon a person's becoming eligible to notify his desire to surrender part of his pension, the employing authority shall furnish him with written information explaining the provisions of these regulations relating to such surrender, together with two copies of a form of notification of surrender of pension, and, in the case of a person to whom regulation 12(2) applies, a provisional estimate of the value of the pension that may become payable to him.
 - (2) A person to whom regulation 12(1) applies, and who desires to surrender a part of his pension, shall notify the employing authority accordingly not later than one month after he becomes entitled to receive payment of benefits.
4. For the purpose of notifying his desire to surrender a part of his pension, a person shall complete the form provided for the purpose, and send it, together with a copy thereof, to the employing authority whose officer he is or was, and they shall transmit the original to the Secretary of State.
5. On receipt by the Secretary of State of a notification given by a person under paragraph 4—

- (a) the Secretary of State shall arrange for the person to be examined by a registered medical practitioner nominated by the Secretary of State, with a view to obtaining from such practitioner a report stating whether, in his opinion, the person is in good health, regard being had to his age; and if the opinion stated in such report is that he is not in good health, the Secretary of State shall notify him accordingly, and offer him an opportunity of a further examination by some other registered medical practitioner nominated by the Secretary of State;
- (b) the Secretary of State shall require the person to furnish at his own expense—
 - (i) a certified copy of his birth certificate, except where the date of birth has been duly recorded by the Secretary of State and is not disputed; and
 - (ii) with respect to the beneficiary, a birth certificate, a marriage certificate (in the case of a spouse) and any other information or evidence which the Secretary of State may consider necessary:

Provided that if for any reason a birth certificate or a marriage certificate cannot be supplied, the Secretary of State may accept such other evidence of birth or marriage as he may think fit.

6. Any fee payable to a practitioner in respect of an examination and report under paragraph 5 shall be paid by the person examined at the time of the examination.

7.—(1) Subject to the provisions of these regulations, unless the Secretary of State is of opinion, on consideration of a report obtained by him under paragraph 5, that the person to whom the report relates is not in good health, or unless he is of opinion that the evidence produced in regard to age or marriage is not satisfactory, he shall accept the surrender of such part of the pension as is specified in the person's notification and as is in conformity with this Schedule, and shall grant to the beneficiary named in the notification a pension in accordance with the provisions of paragraph 2.

(2) As soon as practicable after coming to a decision in regard to a notification given by a person, the Secretary of State shall inform him whether or not the notification has been accepted, and if it has been accepted, shall furnish him with a statement as to the amount of the pension to which the beneficiary may become entitled after his death, and the amount of the reduced pension that is or may become payable to him, and, if the notification has not been accepted, shall inform him of the reason.

8.—(1) A person who has given a notification of his desire to surrender part of his pension under these regulations may cancel or amend the notification by a notice in writing given to the employing authority at any time before he has been informed by the Secretary of State that his surrender has been accepted.

(2) An amendment of a notification shall be disregarded if the notification as so amended does not comply with this Schedule.

9.—(1) A notification given by a person under this Schedule shall become null and void if—

- (a) the beneficiary dies before the person has been informed by the Secretary of State that his surrender has been accepted; or
- (b) the person dies at any time before midnight on the day on which the Secretary of State decides to accept the surrender; or
- (c) a person to whom regulation 12(3) of the 1961 regulations (a) applied again becomes an officer and has not become an officer mentioned in sub-paragraph (3) of this paragraph or completed 40 years' contributing and non-contributing service, the non-contributing service being reckoned at half its actual length.

(2) Subject as aforesaid, a surrender of part of a pension accepted in pursuance of a notification shall have effect as from the date on which the pension becomes payable.

(3) The reference in sub-paragraph (1) of this paragraph to an officer mentioned in this sub-paragraph is a reference to an officer who—

- (a) in the case of a mental health officer or of a female who is a nurse, physiotherapist, midwife or health visitor, has attained the age of 60 years; or
- (b) in any other case has attained the age of 65 years.

(a) Revoked by regulation 15 of S.I. 1973/242.

10. A notice in writing sent by an employee to his employing authority under paragraph 4 or paragraph 8, and information given by the Secretary of State to an employee under paragraph 7 of acceptance or non-acceptance of the employee's notification of his desire to surrender part of his pension shall, if posted in a properly addressed prepaid envelope, be deemed to have been received by the person to whom it was addressed at the time at which a letter would have been delivered in the ordinary course of post.

Regulations 21(4) and 80(1) SCHEDULE 2

THE CALCULATION OF TRANSFER PAYMENTS AND OF SERVICE TO BE
CREDITED IN RESPECT OF TRANSFER PAYMENTS MADE TO THE
SECRETARY OF STATE

PART I

CALCULATION OF TRANSFER PAYMENT

1. A transfer payment to be made in accordance with the provisions of regulation 80 in respect of a person shall be—

- (a) the aggregate of the sums calculated in accordance with paragraph 2 in respect of his accrued pension, accrued retiring allowance and, if the person is a man, his accrued widow's pension, less a sum in respect of accrued modification, accrued guaranteed 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, together with
- (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.

2.—(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.

(2) The sum in respect of the accrued widow's pension shall be calculated by multiplying the accrued widow's pension by 4.

3. In this Schedule—

- (a) "accrued pension" and "accrued retiring allowance" mean the annual pension and retiring allowance respectively to which the person would have become entitled if, on the date he ceased to be an officer, he had completed a specified period of service;
- (b) "accrued widow's pension" means the annual widow's pension which, after the expiry of any initial period during which it might have been paid at a higher rate, would have been payable in respect of the person if, on the date he ceased to be an officer, he had been a married man who had been in receipt of a pension equivalent to his accrued pension and had died;
- (c) "accrued modification" means the amount by which the accrued pension would be reduced under any provision for the reduction of a pension as a consequence of the provisions of sections 30 and 36 of the Act of 1965;
- (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 20 on the date he ceased to be an officer.

4. Where a person's accrued pension is calculated partly at the rate set out in regulation 9(1) and partly at the rate set out in regulation 71(2), the transfer payment in respect of him shall be the aggregate of—

- (i) a transfer payment in respect of his service otherwise than as a practitioner calculated as if he ceased to be an officer at the date on which he ceased to be an officer other than a practitioner, and
- (ii) a transfer payment in respect of his service as a practitioner calculated as if he ceased to be an officer at the date on which he ceased to be a practitioner.

PART II

CALCULATION OF SERVICE

5. Subject to the provisions of paragraph 6, where a transfer payment has been made to the Secretary of State, there shall be credited to the officer in respect of whom the payment was made such contributing service as would enable the Secretary of State to make by reference to the officer's age and pensionable pay a transfer payment under regulation 80 equivalent to the amount received.

6. For the purposes of paragraph 5—

- (a) in the case of an officer who was previously subject to a statutory scheme or to any other scheme which is for the time being treated by the Secretary of State as a statutory scheme for the purposes of this Schedule—
 - (i) the calculation of the contributing service to be credited to the officer is to be made by reference to his age, and to the rate of pensionable pay used in the calculation of the transfer payment; and
 - (ii) any sum representing the interest included in the transfer payment is to be ignored;
- (b) in the case of an officer who was previously subject to any other scheme—
 - (i) the calculation of the contributing service to be credited to him is to be made by reference to his age and remuneration at the annual rate payable in respect of him on the day on which he became an officer or, if the transfer payment in respect of him is received by the Secretary of State more than one year after he becomes an officer, on the day on which the transfer payment is received, but in the case of a practitioner the annual rate of remuneration shall be the average annual rate of his pensionable pay in respect of the 3 months immediately before his ceasing to be subject to that scheme increased by an annual amount equal to any increase which would have been payable at the date on which the transfer payment was received by the Secretary of State under the Pensions (Increase) Act 1971 on a pension of the same amount as the annual rate of the pensionable pay and beginning on the day following the last day on which he was subject to that scheme had that Act applied to such a pension; and
 - (ii) the sum received as a transfer payment shall be deemed to be the sum which the Secretary of State determines that he would have received in respect of that officer had the transfer payment been made on the day on which he became an officer;
- (c) the pension in respect of contributing service mentioned in paragraph 5 shall be deemed—
 - (i) in the case of a person mentioned in regulation 56(11), to be subject to that regulation; or
 - (ii) in any other case, to be subject to reduction as provided in regulation 56(3)(c); and
 - (iii) to be subject to paragraph 6(4) of Schedule 10;
- (d) where an amount of a person's pay has been disregarded as a consequence of any provision of the Act of 1965 or the Social Security Act 1973(a) the pensionable pay shall be increased by such amount;

- (e) where the pensionable pay by reference to which the transfer payment received by the Secretary of State was calculated relates to a single part-time employment, or to concurrent part-time employments, the transfer payment equivalent to the amount received by the Secretary of State shall be calculated by reference to the remuneration which the Secretary of State considers would have been paid in respect of a single comparable whole-time employment;
- (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, the transfer payment under regulation 80 equivalent to the amount of the transfer payment received, no reduction shall be made in respect of accrued guaranteed minimum pension.

PUBLIC SERVICE TRANSFER PAYMENTS

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

(A) Age	(B) Pension Factor	(C) Retiring Allowance Factor	(D) Modification Factor	(E) Guaranteed Minimum Pension Factor
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

PUBLIC SERVICE TRANSFER PAYMENTS
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

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

(A) Age	(B) Pension Factor	(C) Retiring Allowance Factor	(D) Modification Factor	(E) Guaranteed Minimum Pension Factor
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 3

REDUCTION OF PENSION UNDER REGULATION 56(3)

TABLE 1

WOMAN WHO IS A NURSE, MENTAL HEALTH OFFICER, PHYSIOTHERAPIST,
MIDWIFE OR HEALTH VISITOR

Age	Annual Sum	Age	Annual Sum
	£		£
Under 20	1·70	33 and under 34	·675
20 and under 21	1·55	34 " " 35	·65
21 " " 22	1·40		
22 " " 23	1·275	35 " " 36	·65
23 " " 24	1·15	36 " " 37	·625
24 " " 25	1·05	37 " " 38	·625
		38 " " 39	·625
25 " " 26	·975	39 " " 40	·60
26 " " 27	·90		
27 " " 28	·85	40 " " 41	·60
28 " " 29	·80	41 " " 42	·60
29 " " 30	·775	42 " " 43	·575
		43 " " 44	·575
30 " " 31	·75	44 " " 45	·55
31 " " 32	·725		
32 " " 33	·70	45 and over	·55

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

TABLE 2

OFFICER, OTHER THAN A FEMALE OFFICER MENTIONED IN TABLE 1

Age	Annual Sum	
	Men	Women
	£	f
Under 20	1·70	1·70
20 and under 21	1·65	1·575
21 " " 22	1·625	1·475
22 " " 23	1·60	1·375
23 " " 24	1·55	1·275
24 " " 25	1·525	1·20
25 " " 26	1·50	1·125
26 " " 27	1·475	1·05
27 " " 28	1·45	1·00
28 " " 29	1·425	·95
29 " " 30	1·40	·90
30 " " 31	1·375	·875
31 " " 32	1·35	·85
32 " " 33	1·30	·825
33 " " 34	1·275	·80
34 " " 35	1·25	·775
35 " " 36	1·225	·75
36 " " 37	1·20	·725
37 " " 38	1·175	·70
38 " " 39	1·15	·675
39 " " 40	1·125	·675
40 " " 41	1·10	·65
41 " " 42	1·075	·65
42 " " 43	1·05	·625
43 " " 44	1·025	·625
44 " " 45	1·00	·60
45 " " 46	·975	·60
46 " " 47	·95	·60
47 " " 48	·925	·575
48 " " 49	·90	·575
49 " " 50	·875	·55
50 " " 51	·85	·55
51 " " 52	·85	·55
52 " " 53	·825	·55
53 " " 54	·80	·55
54 " " 55	·775	·55
55 and over	·775	·55

SCHEDULE 5

Regulation 15

CHILD'S ALLOWANCE

1. Where an officer or a person entitled to a pension under these or the previous regulations dies leaving an eligible child then, subject to the provisions of regulation 17(4), a child's allowance shall be payable for the first 3 months following the death of the parent or, if the child was born within that period, the remainder of the period—

- (a) if the parent was an officer on or after 1st October 1972 and was, at the date of his death, entitled to a pension under these or the previous regulations and was not then an officer, at the rate set out in regulation 14(4)(a);
- (b) if the parent was, at the date of his death, entitled to a pension under these or the previous regulations and was also an officer, at the rate set out in regulation 14(4)(b); or
- (c) if the parent was an officer at the date of his death and was not then entitled to a pension under these or the previous regulations, at the rate set out in regulation 14(4)(c);

and provisos (ii), (iii) and (iv) to regulation 14(4) shall apply to the calculation of such a rate:

Provided that no allowance shall be payable under this paragraph for any period during which a widow's or widower's pension is payable at the rate specified in regulation 14(4).

2. Subject to the provisions of this Schedule, and of regulation 17(4) except whilst any amount is payable under paragraph 1, a child's allowance dependent upon the number of eligible children of a person mentioned in regulation 15(2)(a) shall be at the appropriate rate shown in the table hereunder—

TABLE

Number of eligible children	Rate of allowance expressed as a fraction of the pension to which the person was entitled under these regulations	
	<i>Where there is a surviving parent or spouse of a parent</i>	<i>Where there is no surviving parent or spouse of a parent</i>
1 child	One-quarter	One-third
2 or more children	One-half	Two-thirds

Provided that in the case of a child of a person who dies having become entitled to a pension after 15th December 1966 and before 26th March 1972 the rate of allowance shall be calculated as if these regulations had not been made.

3. For the purposes of paragraph 2—

- (i) the pension of a person shall be calculated without reference to any reduction required to be made under regulation 56, and
- (ii) the pension of a person who has died before becoming entitled to a pension under these regulations shall be deemed to be the pension which would have been payable to him had he become entitled to a pension under regulation 8(1)(a)(i) on the day of his death.

4. Where there is a surviving parent or spouse of a parent, the Secretary of State may pay a child's allowance at the rate which would have been applicable had there been no surviving parent or spouse of a parent for any period during which he is satisfied that any surviving parent or spouse of a parent does not maintain the child.

5. The child's allowance shall not be payable in respect of the death of more than one parent but shall be payable in respect of the death of whichever parent would result in the larger payment.

6. The child's allowance shall be payable to the child or in such proportion as the Secretary of State thinks fit to the children entitled thereto; provided that the Secretary of State may if he thinks fit pay the allowance to such other person or persons as he may specify, and such person or persons shall apply it in accordance with any directions given by the Secretary of State for the benefit of the child or children entitled thereto.

7. An allowance shall not be payable to or for the benefit of a child mentioned in regulation 15(2)(b)(ii) for any period exceeding one month during which he is maintained out of moneys provided by Parliament in a hospital or other institution so maintained.

Regulation 4(1)(f)

SCHEDULE 6

PART-TIME EMPLOYMENTS

The requirements to be satisfied in order that a person employed in a part-time capacity may be an officer by virtue of regulation 4(1)(f) are that:—

1. He fulfils one of the following minimum employment qualifications:—

- (a) he is employed by one or more employing authorities for such hours in any period as in the aggregate amount to not less than one-half of the hours which would constitute whole-time employment in his case; or
- (b) he satisfies the Secretary of State that in the aggregate of his employment under one or more employing authorities and employment under a local authority or governing body of a medical school or such other employment as the Secretary of State may designate he is employed for such hours in any period as would constitute whole-time employment in his case; or
- (c) he was transferred under the Act of 1946 or entered employment of an employing authority in consequence of the acquisition of premises under section 58 of the Act of 1946 and immediately before either of those events had reasonable expectations of superannuation benefits on retirement, and since either of those events has remained an officer without a continuous break of 12 months or more other than a period to which regulation 22(2) applies:

Provided that any part-time officer who, whilst continuing to be employed by an employing authority, no longer satisfies a minimum employment qualification under this paragraph shall be deemed to satisfy such a qualification for a period of one month unless during that period he elects otherwise in writing to his employing authority.

2.—(1) There is in respect of him an election made in writing to his employing authority and having effect in accordance with this paragraph.

- (2) (a) Where the employment commenced before 1st April 1973 and the election is made before 1st May 1973, the election shall take effect as from 1st April 1973;
- (b) where the employment commences on or after 1st April 1973 and the election is made within one month after such commencement, the election shall take effect as from the date of such commencement; and
- (c) where the election is made one month or more after the commencement of the employment and on or after 1st May 1973, the election shall take effect as from the beginning of the next pay period following the receipt by the employing authority of that election:

Provided that—

- (i) an employment in which a person does not fulfil a minimum employment qualification under paragraph 1 shall be deemed for the purposes of this paragraph to commence when he fulfils such qualification;
- (ii) an officer shall be deemed to have made an election taking effect as from 1st April 1973 if, before that date, he was a part-time officer to whom these regulations applied and he satisfied the description contained in paragraph 1(b) or 1(c); and
- (iii) an election in relation to the minimum employment qualification set out in paragraph 1(c), other than by a person to whom the last preceding proviso applies, must be made within 3 months of the date on which that paragraph first applied to him or within such longer period as the Secretary of State may in any particular case allow.

(3) An election under this paragraph shall continue to have effect as an election to his employing authority as long as the officer remains an officer without a continuous break of 12 months or more other than a period to which regulation 22(2) applies.

SCHEDULE 7

Regulation 25

PURCHASE OF ADDED YEARS

1. The sum payable under regulation 25 by an officer shall be calculated in accordance with the provisions of paragraph 8, and may be paid—

- (a) by a lump sum;
- (b) partly by a lump sum and partly, as provided in paragraph 3, by equal instalments; or
- (c) wholly by equal instalments as aforesaid.

2. For the purposes of this Schedule the “material date” shall be the date on which an officer’s election to make payment under regulation 25 is received by his employing authority.

3. A lump sum payable under paragraph 1 shall be paid within such time after the officer’s election under regulation 25 as the Secretary of State may specify and instalments payable under that paragraph shall be of equal amounts spread over a whole number of years being not less than 5 years and not more than 10 years or over the whole period to the date on which the officer attains the age of 65 years if that period is less than 10 years, the first instalment to be paid within such period as the Secretary of State may specify:

Provided that—

- (a) the whole of the instalments shall be paid by the date on which the officer attains the age of 65 years; and
- (b) instalments payable by an officer, together with any other contributions payable by him under these or the previous regulations, shall not in aggregate exceed 15 per cent of his remuneration or such other limit as the Commissioners of Inland Revenue may from time to time specify.

4. Where payment is made by instalments under paragraph 1, the amount calculated in accordance with paragraph 8 shall be increased by 5 per cent for each year over which instalments are to be spread and proportionately for any part-year.

5. Subject to the provisions of regulation 28 and paragraphs 6 and 7, the number of added years of contributing service that an officer may elect to purchase shall not exceed the number in column (2) of the table hereunder as specified opposite the number of years in column (1) of service reckonable on his attaining age 60 if his employment as an officer continued to that age.

TABLE

(1) Potential number of complete years of contributing service reckonable at age 60	(2) Maximum permitted number of added years
Less than 9	Nil
9	1
10	2
11	3
12	4
13	5
14	7
15	9
16	11
17	13
18	15
19	17
20 or more	20

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

1198

6. The maximum number of added years of contributing service permitted under paragraph 5 shall be reduced, in such manner as the Secretary of State may consider in any particular case to be appropriate, to take account of any retained benefits to which the officer became entitled before the material date (whether payable before, on or after that date), and for this purpose retained benefits means—

- (a) any pension, lump sum retiring allowance or short service gratuity payable under these or the previous regulations;
- (b) any superannuation benefits, including a return of contributions, payable on termination of employment otherwise than as an officer; and
- (c) such other benefits as the Commissioners of Inland Revenue may from time to time specify:

Provided that this paragraph and paragraphs 5 and 7 shall not apply in respect of the purchase of any service under regulation 25(2).

7. Where the limits laid down from time to time by the Commissioners of Inland Revenue would allow added years to be purchased up to a different maximum from that provided in paragraphs 5 and 6, the maximum under this Schedule shall be increased or reduced accordingly.

8.—(1) For the purpose of calculating the sum to be paid by an officer under this Schedule the table set out below shall be used in accordance with this paragraph.

(2) The age of an officer means his age at the material date.

(3) The remuneration of an officer, other than a practitioner, means the annual average of his remuneration during the 3 months of continuous employment as such officer—

- (a) before the material date; or
- (b) to the end of the first 3 months of such employment if that is later than the material date:

Provided that—

- (i) in the case of a medical or dental officer entitled under his terms of service to fees in respect of domiciliary consultations, such fees shall be disregarded;
- (ii) in the case of an officer whose remuneration was reduced or suspended by reason of his absence from duty owing to illness or injury, the absence shall be disregarded and no account shall be taken of the reduction or suspension; and
- (iii) the rate of remuneration of an officer in part-time employment shall be deemed to be the rate of remuneration which the Secretary of State determines would have been paid in respect of a single comparable whole-time employment.

(4) The remuneration of a practitioner means—

- (a) the annual average of his total uprated remuneration (calculated in accordance with regulation 71(2)(a)) for service as a practitioner before the material date, any service that may be treated as practitioner service by virtue of regulations 72 and 73 being disregarded; or
- (b) the annual average of his remuneration as a practitioner to the end of the first complete quarter of service as a practitioner if that is later than the material date.

(5) The sum payable by an officer in order to purchase one added year of contributing service shall be calculated by multiplying his remuneration by the amount shown in column (2) of the table set out below corresponding to his age and dividing the product by 100, so, however, that in the case of an officer to whom regulation 56(1) applies such sum shall be reduced by the amount in column (3) of the said table corresponding to his age.

(6) The sum payable by an officer in order to purchase more than one added year of contributing service is the sum calculated in accordance with sub-paragraph (5) of this paragraph multiplied by the number of added years of such service that he elects to purchase.

TABLE

Age (1)	Amount appropriate in respect of each £100 of remuneration (2)	Reduction in respect of a person to whom regulation 56(1) applies (3)
	£	£
20	11.07	0.65
21	11.15	0.68
22	11.23	0.75
23	11.31	0.82
24	11.39	0.87
25	11.48	0.94
26	11.56	1.02
27	11.64	1.09
28	11.72	1.16
29	11.81	1.24
30	11.90	1.34
31	12.00	1.45
32	12.11	1.56
33	12.21	1.70
34	12.32	1.85
35	12.42	2.01
36	12.53	2.18
37	12.64	2.35
38	12.74	2.52
39	12.85	2.69
40	12.96	2.89
41	13.08	3.13
42	13.20	3.37
43	13.32	3.62
44	13.45	3.91
45	13.59	4.20
46	13.73	4.51
47	13.88	4.86
48	14.04	5.27
49	14.19	5.73
50	14.34	6.26
51	14.52	6.83
52	14.74	7.46
53	14.98	8.16
54	15.24	8.93
55	15.54	9.76
56	15.88	10.68
57	16.28	11.68
58	16.74	12.77
59	17.26	13.97
60	17.85	15.33
61	17.93	15.78
62	18.02	16.29
63	18.12	16.86
64	18.23	17.65
65 and over	18.28	18.05

Regulation 27

SCHEDULE 8

PURCHASE OF UNREDUCED RETIRING ALLOWANCE

1. The sum payable under regulation 27 by an officer shall be calculated in accordance with the provisions of paragraph 5, and may be paid—

- (a) by a lump sum;
- (b) partly by a lump sum and partly, as provided in paragraph 3, by equal instalments; or
- (c) wholly by equal instalments as aforesaid.

2. For the purposes of this Schedule the “material date” shall be the date on which an officer’s election to make payment under regulation 27 is received by his employing authority.

3. A lump sum payable under paragraph 1 shall be paid within such time after the officer’s election under regulation 27 as the Secretary of State may specify and instalments payable under that paragraph shall be of equal amounts spread over a whole number of years being not less than 5 years and not more than 10 years or over the whole period to the date on which the officer attains the age of 65 years if that period is less than 10 years, the first instalment to be paid within such period as the Secretary of State may specify:

Provided that—

- (a) the whole of the instalments shall be paid by the date on which the officer attains the age of 65 years; and
- (b) the instalments payable by an officer, together with any other contributions payable by him under these or the previous regulations, shall not in aggregate exceed 15 per cent of his remuneration or such other limit as the Commissioners of Inland Revenue may from time to time specify.

4. Where payment is made by instalments under paragraph 1, the amount calculated in accordance with paragraph 5 shall be increased by 5 per cent for each year over which instalments are to be spread and proportionately for any part-year.

5.—(1) For the purpose of calculating the sum to be paid by an officer under this Schedule the table set out below shall be used in accordance with this paragraph.

(2) The age of an officer means his age at the material date.

(3) The remuneration of a person who at the material date was an officer, other than a practitioner, shall—

- (a) for the purpose of calculating the sum to be paid in respect of contributing service otherwise than as a practitioner (other than service which would at the material date be deemed to be practitioner service under regulations 72 and 73 if a benefit were then payable), be the annual average of his remuneration during the 3 months of continuous employment as such officer before the material date, or to the end of the first 3 months of such employment if that is later than the material date; and
- (b) for the purpose of calculating the sum to be paid in respect of contributing service as a practitioner (including service which would at the material date be deemed to be practitioner service under regulations 72 and 73 if a benefit were then payable) which terminated before the material date, be the annual average of his total uprated remuneration (calculated in accordance with regulation 71(2)(a)) for service as a practitioner, increased by an annual amount equal to any increase which would have been payable at the material date under the Pensions (Increase) Act 1971 on a pension of the same amount as such annual average of his total uprated remuneration and beginning on the day following the last day of service as a practitioner had that Act applied to such pension:

Provided that—

- (i) the remuneration of such officer who at the material date was an officer specified in regulation 7(2) shall be his average remuneration increased by an annual amount equal to any increase which would have been payable at the material date under the Pensions (Increase) Act 1971 on a pension of the same amount as such average remuneration and beginning on the day on which regulation 7(2) first applied to him;
- (ii) in the case of a medical or dental officer entitled under his terms of service to fees in respect of domiciliary consultations, his remuneration for the purpose of calculating the sum to be paid in respect of any contributing service to which regulation 10 would apply shall be increased by a sum equal to the amount of such fees earned by him in the last financial year ending before the material date;
- (iii) in the case of an officer whose remuneration was reduced or suspended by reason of his absence from duty owing to illness or injury, the absence shall be disregarded and no account shall be taken of the reduction or suspension; and
- (iv) the rate of remuneration of an officer in part-time employment shall be deemed to be the rate of remuneration which the Secretary of State determines would have been paid in respect of a single comparable whole-time employment.

(4) The remuneration of a person who at the material date was a practitioner, shall—

- (a) for the purpose of calculating the sum to be paid in respect of contributing service as a practitioner (including service which would at the material date be deemed to be practitioner service under regulations 72 and 73 if a benefit were then payable), be the annual average of his total uprated remuneration (calculated in accordance with regulation 71(2)(a)) for service as a practitioner before the material date, or the annual average of his remuneration as a practitioner to the end of the first complete quarter of service as a practitioner if that is later than the material date; and
- (b) for the purpose of calculating the sum to be paid in respect of contributing service otherwise than as a practitioner (other than service which would at the material date be deemed to be practitioner service under regulations 72 and 73 if a benefit were then payable) which terminated before the material date, be his annual rate of remuneration when he last ceased to be an officer other than a practitioner, increased by an annual amount equal to any increase which would have been payable at the material date under the Pensions (Increase) Act 1971 on a pension of the same amount as such annual rate of remuneration and beginning on the day following the last day of service otherwise than as a practitioner had that Act applied to such pension,

and in determining remuneration under this sub-paragraph provisos (i) to (iv) to sub-paragraph (3) above shall apply.

(5) The sum payable by an officer in respect of one year of contributing service shall be calculated by multiplying his remuneration by the amount shown in column (2) of the table set out below corresponding to his age and dividing the product by 100.

(6) The sum payable by an officer in respect of more than one year of contributing service is the sum calculated in accordance with sub-paragraph (5) of this paragraph multiplied by the number of years of contributing service in respect of which he elects to make payments under regulation 27(1), and a proportionate amount in respect of a fraction of a year of contributing service in respect of which he elects to make such payment.

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

TABLE

Age (1)	Amount appropriate in respect of each £100 of remuneration (2)
	£
20	1.48
21	1.49
22	1.50
23	1.51
24	1.52
25	1.53
26	1.54
27	1.55
28	1.56
29	1.57
30	1.59
31	1.60
32	1.61
33	1.63
34	1.64
35	1.66
36	1.67
37	1.69
38	1.70
39	1.71
40	1.73
41	1.74
42	1.76
43	1.78
44	1.79
45	1.81
46	1.83
47	1.85
48	1.87
49	1.89
50	1.91
51	1.94
52	1.97
53	2.00
54	2.03
55	2.07
56	2.12
57	2.17
58	2.23
59	2.30
60	2.38
61	2.39
62	2.40
63	2.42
64	2.43
65 and over	2.44

SCHEDULE 9

Regulation 45 (3)

PURCHASE OF ADDITIONAL WIDOW'S PENSION

1. The sum payable under regulation 45(3) by an officer shall be calculated in accordance with the provisions of paragraph 5, and may be paid—

- (a) by a lump sum;
- (b) partly by a lump sum and partly, as provided in paragraph 3, by equal instalments; or
- (c) wholly by equal instalments as aforesaid.

2. For the purposes of this Schedule the "material date" has the meaning ascribed to it in regulation 45(5)(c).

3. A lump sum payable under paragraph 1 shall be paid within such time after the material date as the Secretary of State may specify and instalments payable under that paragraph shall be of equal amounts spread over a whole number of years not being less than 5 years and not more than 10 years or over the whole period to the date on which the officer attains the age of 65 if that period is less than 10 years, the first instalment to be paid within such period as the Secretary of State may specify:

Provided that—

- (a) the whole of the instalments shall be paid by the date on which the officer attains the age of 65 years; and
- (b) the instalments payable by an officer, together with any other contributions payable by him under these or the previous regulations, shall not in aggregate exceed 15 per cent of his remuneration or such other limit as the Commissioners of Inland Revenue may from time to time specify.

4. Where payment is made by instalments under paragraph 1, the amount calculated in accordance with paragraph 5 shall be increased by 5 per cent for each year over which instalments are to be spread and proportionately for any part-year.

5.—(1) For the purpose of calculating the sum to be paid by an officer under this Schedule the table set out below shall be used in accordance with this paragraph.

(2) The age of an officer means his age at the material date.

(3) The remuneration of an officer means the annual average of his remuneration (being such remuneration as is defined in regulation 45(5)(a)) during the 3 months of continuous employment as an officer—

- (a) before the material date; or
- (b) to the end of the first 3 months of such employment if that is later than the material date:

Provided that—

- (i) in the case of an officer whose remuneration was reduced or suspended by reason of his absence from duty owing to illness or injury, the absence shall be disregarded and no account shall be taken of the reduction or suspension; and
- (ii) the rate of remuneration of an officer in part-time employment shall be deemed to be the rate of remuneration which the Secretary of State determines would have been paid in respect of a single comparable whole-time employment.

(4) The sum payable by an officer in respect of one year of service shall be calculated by multiplying his remuneration by the amount shown in column (2) of the table set out below corresponding to his age and dividing the product by 100.

(5) The sum payable by an officer in respect of more than one year of service is the sum calculated in accordance with sub-paragraph (4) of this paragraph multiplied by the number of years of service in respect of which he elects to make payment, and a proportionate amount in respect of a fraction of a year in respect of which he elects to make such payment.

NATIONAL HEALTH SERVICE,
ENGLAND AND WALES

TABLE

Age (1)	Amount appropriate in respect of each £100 of remuneration (2)
	£
20	1.107
21	1.115
22	1.123
23	1.131
24	1.139
25	1.148
26	1.156
27	1.164
28	1.172
29	1.181
30	1.190
31	1.200
32	1.211
33	1.221
34	1.232
35	1.242
36	1.253
37	1.264
38	1.274
39	1.285
40	1.296
41	1.308
42	1.320
43	1.332
44	1.345
45	1.359
46	1.373
47	1.388
48	1.404
49	1.419
50	1.434
51	1.452
52	1.474
53	1.498
54	1.524
55	1.554
56	1.588
57	1.628
58	1.674
59	1.726
60	1.785
61	1.793
62	1.802
63	1.812
64	1.823
65 and over	1.828

SCHEDULE 10

Regulation 57

MODIFICATION OF BENEFITS AND OBLIGATIONS UNDER THESE REGULATIONS
IN CONNECTION WITH THE ACT OF 1965

PART I

Reduction of pensions

1.—(1) Subject to the provisions of this Schedule, where any period of service reckonable in calculating the amount of any pension to which an officer is entitled has been in participating employment, as from the date on which the officer becomes entitled to that pension, or if on becoming entitled to the pension he has not yet reached the age of 65 years in the case of a man or 60 years in the case of a woman, as from the date on which he reaches that age, the part of the pension which is attributable to any such period of service shall be reduced in accordance with this Part of this Schedule, and regulation 56 or the corresponding provision of any optants scheme shall cease to apply in relation to that part of the pension.

(2) The reduction required to be made in accordance with this Part of this Schedule, shall not be less than that required to be made under the said regulation 56 or corresponding provision of an optants scheme.

(3) For the purpose of this Part of this Schedule, no account shall be taken of any period of participating employment occurring in an income tax year if no graduated contributions have been paid in respect of all such periods during that year.

(4) Notwithstanding anything in the last foregoing sub-paragraph, a period of employment as an officer, at the end of which a payment in lieu of contributions has been made, shall be treated for the purpose of this Part of this Schedule, as a period of participating employment.

(5) No account shall be taken of the reduction of any pension under this Part of this Schedule—

- (a) in calculating the amount of any retiring allowance or death gratuity or of any pension or allowance to or in respect of a widow, child or other dependant, payable under these regulations or an optants scheme; or
- (b) for the purposes of paragraph 1(a) of Schedule 1.

2.—(1) Where a pension would, apart from this Schedule, be subject to reduction in accordance with regulation 56, so much of that pension as is attributable to any period of participating employment shall, subject to sub-paragraph (2) of this paragraph, be reduced—

- (a) for each year of such employment which is reckonable as contributing service otherwise than as a practitioner, by a sum equal to 1/240th of so much of the retiring remuneration as does not exceed—
 - (i) in respect of any such year prior to 6th January 1964, £780 per annum; or
 - (ii) in respect of any such year on or after 6th January 1964, £936 per annum, and by a proportionate part of such sum for any part of such year; and
- (b) for each year ending 31st March or part of such year of such employment which is reckonable as contributing service as a practitioner, by a sum equal to $\frac{1}{2}$ per cent of so much of his remuneration—
 - (i) in respect of any year or part of a year prior to 1st April 1964 as does not exceed £780 per annum; or
 - (ii) in respect of any year or part of a year on or after 1st April 1964 as does not exceed £936 per annum:

Provided that—

- (a) where a mental health officer is entitled by virtue of regulation 55 to reckon any year of contributing service as such an officer as if it were 2 years, so much of the pension as is attributable to any additional year so reckonable shall, in lieu of such reduction as aforesaid, be reduced by the sum of £1.70 in respect of each such year;

(b) where any employment described in sub-paragraph (a) of this sub-paragraph is reckonable as contributing service at half its length by virtue of regulation 34(1), for the reference in the said sub-paragraph (a) to 1/240th there shall be substituted a reference to 1/480th;

(c) in respect of any period of non-participating employment at the end of which a payment in lieu of contributions has been made such reduction as aforesaid shall be calculated as if the person's remuneration or retiring remuneration had been the remuneration taken into account in calculating the payment in lieu of contributions.

(2) If the last period of contributing service before 6th April 1975 of an officer, other than an officer who is a registered medical or dental practitioner, was non-participating employment in respect of which no payment in lieu of contributions has been made, no account shall be taken for the purpose of this paragraph of any retiring remuneration—

(a) in respect of any period of participating employment prior to 6th January 1964, in excess of £650 per annum in the case of a man and £575 per annum in the case of a woman; and

(b) in respect of any period of participating employment on or after 6th January 1964, in excess of £730 per annum in the case of a man and £680 per annum in the case of a woman,

but in the application of this sub-paragraph to a person who became an officer before 1st January 1974 after having been employed in local government service in which employment the last period was non-participating employment for which no payment in lieu of contributions has been made, the following sub-paragraphs shall be substituted for sub-paragraphs (a) and (b) above in respect of any participating employment in that employment—

“(a) in respect of any period of participating employment prior to 6th January 1964, in excess of £676 per annum in the case of a man and £624 per annum in the case of a woman; and

(b) in respect of any period of participating employment on or after 6th January 1964, in excess of £754 per annum in the case of a man and £702 per annum in the case of a woman.”

(3) For the purpose of this paragraph, “retiring remuneration” means in relation to an officer other than a practitioner his average remuneration calculated in accordance with regulation 36(1) except proviso (f) thereto, or where the pension was calculated under an optants scheme, the average remuneration on which his pension is based uprated by the same factor used to uprate his pension in accordance with regulation 44(7)(d)(ii).

Reduction of pensions payable to certain classes of officer

3. Where a pension would, apart from this Schedule, be subject to reduction under regulation 56(3)(a) or (b), so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with the said sub-paragraph (a) or sub-paragraph (b), as the case may be, and shall be further reduced in accordance with paragraph 2 but shall be increased by the sum of £1·70 for each year of contributing service and by a proportionate amount of that sum in respect of any part year of contributing service comprised in that period:

Provided that where a pension is payable to a mental health officer who is entitled by virtue of regulation 55 to reckon any year of contributing service as such an officer as if it were 2 years, so much of the pension to which this paragraph applies as is attributable to any additional year so reckonable shall be reduced solely in accordance with the said sub-paragraph (a) or sub-paragraph (b), as the case may be.

Pensions not subject to reduction under regulation 56 or corresponding provisions of an optants scheme

4. Where a pension is not subject to reduction in accordance with regulation 56(3) or the corresponding provision of any optants scheme, so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with paragraph 2 but shall be increased by the sum of £1·70 for each year of contributing service and a proportionate amount in respect of any part year of contributing service comprised in that period.

Pensions payable to optants

5.—(1) Subject to the provisions of this paragraph, a pension which falls to be calculated in accordance with the provisions of an optants scheme shall be reduced in the like manner as is provided in paragraph 2 or paragraph 4, as the case may be.

(2) Where an officer has elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him and any pension payable to him would, apart from this Schedule, be subject to the like reduction as is required by regulation 14 of the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1969(a), regulation F9 of the Local Government Superannuation Regulations 1974, or the corresponding provision of a local Act scheme, so much of the pension as is attributable to any period of participating employment shall be reduced in accordance with whichever of the aforesaid provisions was applicable and shall be further reduced in accordance with paragraph 2, but shall be increased by the sum of £1.70 for each year of contributing service and by a proportionate amount of that sum in respect of any part year of contributing service comprised in that period.

(3) Where an officer has elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him under the Superannuation Acts or other optants scheme not requiring the payment of contributions, so much of any pension payable to him as is attributable to any period of participating employment shall be reduced by a sum of £1.30 per annum for every unit, ascertained in accordance with section 36(2) and (3) of the Act of 1965, of graduated contributions paid or treated by virtue of section 58 of that Act as having been paid, by him during such period of participating employment and, in calculating the number of units of a person's graduated contributions account shall be taken only of such number of units as is attributable to graduated contributions paid by him at the rate of 4½ per cent of the amount up to £468 per annum by which his remuneration exceeds £468 per annum.

Reduction of pension in respect of other reckonable employment

6.—(1) Where, before 1st January 1974, a person became an officer after having been employed in other employment (in this paragraph referred to as "his former employment") and any contributing service reckonable by him in his former employment included any period of participating employment or non-participating employment at the end of which a payment in lieu of contributions has been made, so much of a pension payable to him as is attributable to any such period shall, in lieu of any reduction for which this Part of this Schedule provides, be reduced—

- (a) if a modification provision was applicable to him immediately before he ceased his former employment in the like manner as if he had continued that employment and retired from it on the day he ceased to be an officer; or
- (b) if no modification provision was applicable to him at that time and the transfer payment in respect of his former employment had been adjusted to take account of a payment in lieu of contributions, by the amount of the graduated retirement benefit payable under the Act of 1965, the Northern Ireland Act or the Isle of Man Act, as the case may be, in respect of the payment in lieu of contributions.

(2) Where in respect of any period of non-participating employment which has become reckonable for the purpose of these regulations by a person who became an officer before 1st January 1974, equivalent pension benefits have been assured for the purposes of the Act of 1959, the Act of 1965, the Northern Ireland Act or the Isle of Man Act, as the case may be, there shall, for the purpose of this Schedule, be deemed to have been made a payment in lieu of contributions of such amount as would otherwise have fallen to be paid in respect of such employment.

(a) S.I. 1969/793.

(3) Where an officer, other than an officer to whom sub-paragraph (4) of this paragraph applies, has made payments under regulation 30, 31, 32 or 33 and such payments were reduced in accordance with any modification provision of the scheme to which he was subject in his former employment, the part of any pension to which he becomes entitled which is attributable to those payments shall be reduced as if it had been attributable to a period of his former employment.

(4) Where a person who became an officer after 31st December 1973 is entitled, under regulation 21(4), to reckon as contributing service the service which was reckonable in a superannuation scheme, then if that scheme was—

- (a) a statutory scheme or any other scheme which is for the time being treated by the Secretary of State as a statutory scheme for the purpose of this sub-paragraph and the transfer payment received by the Secretary of State in respect of him has been reduced by reference to an amount by which his pension under that scheme would have been reduced as a consequence of the provisions of section 36 of the Act of 1965, so much of any pension payable to him as is attributable to any such contributing service shall, in lieu of the reduction for which this Part of this Schedule provides, be reduced by that amount; or
- (b) any other scheme, so much of any pension payable to him as is attributable to any such contributing service shall not be subject to any reduction for which this Part of this Schedule provides.

Reduction of death gratuities

7.—(1) Where an officer dies without having become entitled to a pension, and a death gratuity is payable under regulation 13 or under an optants scheme, then if a payment in lieu of contributions is required to be made, or such a payment has previously been made in respect of him, the death gratuity shall be reduced by a sum amounting to half of the payment in lieu of contributions or half of the aggregate of such payments if more than one has been made.

(2) No payment in lieu of contributions shall be taken into account for the purpose of this paragraph—

- (a) if the payment was made on the termination of any period of employment which is not reckonable as service for the purposes of these regulations; or
- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960(a), or any corresponding regulation in Northern Ireland or the Isle of Man.

Adjustments following a payment in lieu of contributions or assurance of equivalent pension benefits

8.—(1) Where an officer leaves employment or dies in circumstances in which under these regulations or under any optants scheme there is payable to or in respect of him an amount by way of a return of contributions and—

- (a) a payment in lieu of contributions has previously been made in respect of him in circumstances not involving a return of contributions; or
- (b) the officer's non-participating employment came to an end by reason of the circumstances mentioned in regulation 4(1) of the National Insurance Regulations 1974 and he has been assured of equivalent pension benefits in respect of that employment,

the amount payable to or in respect of him shall be reduced either by a sum equal to one-half of the value of the payment in lieu or by a sum equal to one-half of the payment in lieu which would have had to be made under section 59(7) of the Act of 1965, as modified by regulation 5(2) of the National Insurance Regulations 1974, had the person not been assured of equivalent pension benefits, as the case may be, provided that such sum shall not exceed the amount of the refund.

(a) S.I. 1960/1103; as variously amended and continuing in force by virtue of regulation 3 of and Schedule 3 to S.I. 1974/2057.

(2) No payment in lieu of contributions shall be taken into account for the purpose of this paragraph—

- (a) on more than one occasion; or
- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960, or any corresponding regulation in Northern Ireland or the Isle of Man.

(3) Where a payment to any officer by way of a return of contributions is reduced under section 60(5) of the Act of 1965, or under sub-paragraph (1) of this paragraph or under any corresponding provisions contained in or made under any other enactment (including any such provisions in force in Northern Ireland or the Isle of Man), the amount by which the payment is reduced shall be treated for the purposes of any subsequent return of contributions to which the officer may become entitled under these regulations as having been returned to and retained by the officer.

PART II

NON-PARTICIPATION

Treatment of certain employments as employment under a single employer

9. All employments in which a person's service qualifies him for retirement benefits under these regulations shall be treated for the purposes of Part III of the Act of 1965 and of any regulations made thereunder as employments under a single employer different from the employer in any other employment.

Liabilities of the employer

10. In relation to any employment mentioned in paragraph 9 those things which are required or authorised to be done by or to the employer under—

- (i) section 58 of the Act of 1965 (payments in lieu of contributions) as modified by regulation 4 of the National Insurance Regulations 1974;
- (ii) the National Insurance (Non-participation—Certificates) Regulations 1959(a);
- (iii) the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations 1960;
- (iv) the National Insurance Regulations 1974; and
- (v) the National Insurance (Non-participation—Transitional Provisions) (No. 2) Regulations 1974(b),

shall be done by or to the Secretary of State.

(a) S.I. 1959/1860; as variously amended and continuing in force with modifications by virtue of regulations 2 and 5 of S.I. 1974/2058.

(b) S.I. 1974/2058.

PART III

MISCELLANEOUS

Limitation of surrender, assignment, etc., of pensions

11.—(1) In respect of a period of non-participating employment for which the Secretary of State is responsible for preserving equivalent pension rights except such employment for which a payment in lieu of contributions has been made, no provision in these regulations or in any optants scheme—

(a) for the surrender or assignment of a pension; or

(b) for the reduction, termination or suspension of a pension if invoked for any cause other than one prescribed under section 57(1)(c) of the Act of 1965,

shall operate to reduce a pension payable in respect of any such period to a man who has attained age 65 or a woman who has attained age 60 below the rates specified in sub-paragraph (3) of this paragraph.

(2) Notwithstanding any provision in an optants scheme to the effect that a benefit may be awarded thereunder at the discretion of the authority administering the scheme, the rights enjoyed by an officer shall include the right, subject to sub-paragraph (1) of this paragraph, to receive at the age of 65 years in the case of a man, or 60 years in the case of a woman, benefits not less than the rates specified in sub-paragraph (3) of this paragraph.

(3) The rates referred to in sub-paragraph (1) and (2) of this paragraph and paragraph 12(2) are—

(i) in respect of any year prior to 6th January 1964, the rate of £2.30 10/12 a year in the case of a man and £1.92 6/12 a year in the case of a woman; and

(ii) in respect of any year after 5th January 1964, the rate of £3.47 11/12 a year in the case of a man and £2.90 a year in the case of a woman,

and a proportionate part of such rates in respect of any part year.

Rights of optants

12.—(1) Notwithstanding any provision to the contrary in an optants scheme, the rights of an officer subject to such a scheme who on ceasing to be an officer has attained age 65 years in the case of a man or 60 years in the case of a woman and completed 5 years' service, shall include the right to receive benefits mentioned in sub-paragraph (2) of this paragraph.

(2) The benefits payable in accordance with sub-paragraph (1) of this paragraph are such benefits as would have been payable to an officer under these regulations and the relevant optants scheme in respect of the service reckonable by him immediately before he ceased to hold his employment if—

(a) he had then reached such age and completed such service as would have entitled him to a benefit thereunder; and

(b) the amount of the benefit so calculated had been reduced according to the age at which he ceased to hold his employment by the percentage shown on the relevant table set out hereunder appropriate to the earliest age at which he could have satisfied the conditions of the foregoing sub-paragraph,

but an annual pension so payable in respect of any period of employment described in paragraph 11(1) shall not be less than the rates specified in paragraph 11(3).

(3) In calculating for the purposes of sub-paragraph (2) of this paragraph or regulation 82(2) the amount of the benefit which would have been payable to an officer in the circumstances mentioned therein, no account shall be taken of any reduction required to be made under regulation 56(3); but any benefit payable to an officer under sub-paragraph (1) of this paragraph, or granted under the said regulation 82(2) shall be reduced in accordance with the said regulation 56(3) where the officer has attained, or when he attains, age 65 years in the case of a man or 60 years in the case of a woman.

TABLE 1—PENSION

Age of person on ceasing to be employed	Percentage reduction									
	61	62	63	64	65	66	67	68	69	70
60	7	15	21	28	33	38	42	46	49	52
61	—	8	15	22	28	33	38	43	46	49
62	—	—	8	16	23	28	34	39	43	46
63	—	—	—	9	17	23	29	35	40	43
64	—	—	—	—	9	17	24	30	36	40
65	—	—	—	—	—	9	17	24	31	36
66	—	—	—	—	—	—	9	18	25	31
67	—	—	—	—	—	—	—	10	18	26
68	—	—	—	—	—	—	—	—	10	19
69	—	—	—	—	—	—	—	—	—	11

TABLE 2—LUMP SUM BENEFIT

Age of person on ceasing to be employed	Percentage reduction									
	61	62	63	64	65	66	67	68	69	70
60	4	9	13	16	20	24	27	31	34	36
61	—	5	9	13	17	21	24	28	32	34
62	—	—	5	9	14	18	21	25	29	32
63	—	—	—	5	10	14	18	22	26	30
64	—	—	—	—	5	10	15	19	23	27
65	—	—	—	—	—	5	11	15	20	24
66	—	—	—	—	—	—	6	11	16	21
67	—	—	—	—	—	—	—	6	11	17
68	—	—	—	—	—	—	—	—	6	12
69	—	—	—	—	—	—	—	—	—	6

SCHEDULE 11

Regulation 27(3)

TRANSITIONAL PROVISIONS RELATING TO THE PURCHASE OF
AN UNREDUCED RETIRING ALLOWANCE

1. Where an election is made under regulation 27 by a male officer who was an officer on 1st October 1972 or became an officer after that date and that election is received by his employing authority on or before 31st December 1975 then, for the purpose of calculating the amount of the payment under the said regulation 27—

- (a) the material date shall, subject to paragraph 2, be deemed to be 1st October 1972 or such later date on which he became an officer;
- (b) in the case of an officer who was an officer other than a practitioner at the material date, his remuneration for the purposes of paragraph 5(3) of Schedule 8 and subject to the provisos thereto, shall be his annual rate of remuneration at the material date or if he was then an officer specified in regulation 7(2) his average remuneration;
- (c) in the case of an officer who was a practitioner at the material date, his remuneration shall be determined in accordance with the provisions of paragraph 5(4) of Schedule 8.

2. Notwithstanding the provisions of paragraph 1(a)—

- (a) in the case of an officer whose retiring allowance had he become entitled to such allowance on 1st October 1972 or such later date on which he became an officer would have been calculated otherwise than by reference to proviso (a) or (b) to regulation 9(3), the material date shall be deemed to be the date of his becoming a married officer;
- (b) in the case of an officer whose retiring allowance had he become entitled to such allowance on 1st October 1972 or such later date on which he became an officer would have been calculated by reference to proviso (b) to regulation 9(3), the material date shall be deemed to be 1st October 1972 or such later date on which he became an officer but where such an officer has married after 1st October 1972 but on or before 31st December 1975 the material date, for the purpose of calculating the amount payable under regulation 27 in respect of the officer's contributing service which, had he not so married, would have attracted a retiring allowance equal to three times the annual amount of his pension in respect of that service, shall be deemed to be the date after 1st October 1972 on which he became a married officer.

3. A person who during the period 3rd July 1974 to 31st December 1975 (both dates inclusive) ceases to be an officer and thereupon becomes entitled to a pension under regulation 8 and a retiring allowance related to that pension and who, had he not become so entitled, would have been able to make an election under regulation 27 on or before 31st December 1975 shall, where it is to his advantage, be deemed to have made such election in respect of that retiring allowance, in which event—

- (a) where he becomes entitled to the said pension under regulation 8(1)(a)(i) a single payment (calculated in accordance with paragraph 7) shall be deducted from such retiring allowance and any further sum payable under regulation 27 shall be waived, and
- (b) in any other case there shall be deducted from such retiring allowance an amount equal to the amount which would have been payable by him by way of lump sum had he made such election and had paragraph 1 applied.

4. A person who during the period 3rd July 1974 to 31st December 1975 (both dates inclusive) dies whilst an officer and who, had he not died, would have been able to make an election under regulation 27 on or before 31st December 1975, shall be deemed to have made such election and a single payment (calculated in accordance with paragraph 7) shall be deducted from the death gratuity and any further sum payable under regulation 27 shall be waived.

5. Subject to paragraph 6 a person who during the period 3rd July 1974 to 31st December 1975 (both dates inclusive) ceased to be an officer and died within 12 months of so ceasing in circumstances in which a death gratuity is payable under regulation 13(1)(b) and who, had he not ceased to be an officer, would have been able to make an election under regulation 27 shall be deemed to have made such election.

6. The death gratuity payable in respect of a person to whom paragraph 5 applies shall be reduced by an amount equal to the amount which would have been payable by that person by way of lump sum had he made an election and had paragraph 1 applied, but this paragraph shall not apply so as to reduce the death gratuity that would otherwise be payable.

7. Where a person ceased to be an officer in the circumstances mentioned in paragraph 3 or paragraph 4 the single payment mentioned in sub-paragraph (a) of the said paragraph 3 and in the said paragraph 4 shall—

- (a) where he was employed otherwise than as a practitioner when he ceased to be such an officer, be an amount equal to that proportion of 9 per cent of his annual rate of remuneration when he ceased to be such an officer that would have been deducted from his remuneration in his normal pay period of one week, one month or one quarter as the case may be, and

- (b) where he was a practitioner when he ceased to be such an officer, be an amount equal to that proportion of 9 per cent of his remuneration in the last 3 months as a practitioner before he ceased to be such an officer that would have been deducted from his remuneration in his normal pay period of one month or one quarter, as the case may be:

Provided that for the purpose of calculating a person's annual rate of remuneration where he was—

- (i) a medical or dental officer entitled under his terms of service to fees in respect of domiciliary consultations, his annual rate of remuneration shall be increased by a sum equal to the amount of those fees earned by him in the last financial year ending before he ceased to be such an officer;
- (ii) an officer whose remuneration was reduced or suspended by reason of his absence from duty owing to illness or injury, the absence shall be disregarded and no account shall be taken of the reduction on suspension.

8. The Secretary of State may specify such later dates as he considers to be appropriate in any particular case to be substituted for any one or more of the references in this Schedule to 31st December 1975.

Regulation 86(1)

SCHEDULE 12

REVOCATIONS

Column 1 Regulations revoked	Column 2 References	Column 3 Extent of revocation
The National Health Service (Superannuation) Regulations 1947.	1947/1755	47(9), 54(a)(i) and (b)(i) and (ii), 58(1), 58(2), 59, 60 and Schedule 9
The National Health Service (Superannuation) Regulations 1950.	1950/497	64
The National Health Service (Superannuation) Regulations 1955.	1955/1084	89
The National Health Service (Superannuation) Regulations 1961.	1961/1441	Whole Regulations
The National Health Service (Superannuation) (Amendment) Regulations 1966.	1966/1523	20, 25(2), (3), (4) and (5), 29(2) and 48
The National Health Service (Superannuation) (Amendment) (No. 2) Regulations 1972.	1972/1537	27
The National Health Service (Superannuation) (Amendment) Regulations 1973.	1973/242	9
The National Health Service (Superannuation) (Amendment) (No. 2) Regulations 1973.	1973/731	10
The National Health Service (Superannuation) (Amendment) (No. 3) Regulations 1973.	1973/1649	14
The National Health Service (Superannuation) (Amendment) (No. 2) Regulations 1974.	1974/1047	19, 20, 21 and 22
The National Health Service (Superannuation) (Amendment) Regulations 1975.	1975/1292	13, 20, 21, 22, 23 and 24
The National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations 1976.	1976/1450	Whole Regulations

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations consolidate, with minor amendments, the provisions of the National Health Service (Superannuation) Regulations 1961 to 1978 which provide for the superannuation of persons engaged in the National Health Service.

These regulations also contain some improvements to the National Health Service superannuation scheme including—

- (a) provision for a period of unauthorised unpaid absence to be disregarded for the purpose of determining final remuneration (regulation 36);
- (b) from 6th April 1980 removal of the existing restriction on a refund of contributions to a person whose salary exceeded £5,000 in any financial year (regulation 37(4));
- (c) from 1st April 1980 a revised method of calculating a practitioner's pre-retirement earnings for the purposes of reducing his pension on re-employment (but the rights of those already re-employed on that date are protected) (regulation 40(4)(e)(i));
- (d) the removal of the requirement to modify benefits in accordance with the provisions of the National Insurance Act 1946 in respect of service on or after 1st April 1980 and consequential amendments to the provisions for crediting service transferred into the National Health Service scheme (regulation 56);
- (e) the introduction of a 'no-detriment' clause to protect the rights of certain members who would otherwise be adversely affected by regulation 40 of S.I. 1978/1353 (regulation 72(2)).