
 STATUTORY INSTRUMENTS

1981 No. 1205

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Superannuation) Amendment
Regulations 1981**

Made - - - -	14th August 1981
Laid before Parliament	26th August 1981
Coming into Operation	16th September 1981

The Secretary of State for Social Services, in exercise of powers conferred by sections 10(1), (2) and (3) and 12(1) and (2) of, and paragraphs 3, 4 and 13 of Schedule 3 to, the Superannuation Act 1972(a) and all other powers enabling him in that behalf, after consulting such representatives of persons likely to be affected by these regulations as appear to him to be appropriate, and with the consent of the Minister for the Civil Service, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Health Service (Superannuation) Amendment Regulations 1981 and shall come into operation on 16th September 1981.

(2) The National Health Service (Superannuation) Regulations 1980(b) and these regulations may be cited together as the National Health Service (Superannuation) Regulations 1980 to 1981.

(3) In these regulations “the principal regulations” means the National Health Service (Superannuation) Regulations 1980 and other words and expressions used have the same meaning as in the principal regulations.

Amendment of regulation 3 of the principal regulations

2. In regulation 3 of the principal regulations (definitions)—

(a) in the definition of “remuneration” after the words “payments for overtime” there shall be inserted the words “, payments made in respect of a temporary additional session,”;

(b) in the definition of “service”, after paragraph (b), there shall be inserted the word “or” and the following paragraph—

“(c) any period of employment in respect of a temporary additional session;”;

(c) after the definition of “teaching service” there shall be inserted the following definition—

“ “temporary additional session” means a session equivalent to an extra notional half-day which a specialist or an officer appointed to a post in the grade of associate specialist has, in exceptional circumstances, undertaken to work which does not form part of his normal contractual duties;”.

(a) 1972 c. 11.

(b) S.I. 1980/362.

Amendment of regulation 8 of the principal regulations

3. Regulation 8 of the principal regulations (officer's pension and retiring allowance) shall be amended as follows—

- (a) in paragraph (1)—
- (i) at the end of sub-paragraph (a)(v) for the word “and” there shall be substituted the word “or” and after that sub-paragraph there shall be inserted the following sub-paragraph—

“(vi) he has attained the age of 50 years and completed 5 years' service and the conditions prescribed in paragraph (7) are applicable in his case; and”;
 - (ii) in proviso (iii), for “or (ii)” there shall be substituted “, (ii) or (vi)”;
- (b) for paragraph (5) there shall be substituted the following paragraph—
- “(5) Notwithstanding anything contained in regulation 44, an officer to whom that regulation applies or a mental health officer—
- (a) on ceasing to be an officer in the circumstances mentioned in paragraph (1)(a)(vi) shall be entitled to receive the benefits to which he would have been entitled on reaching the age and completing the service prescribed by the relevant provisions, in respect of the service reckonable by him immediately before he so ceased to be such an officer; or
 - (b) who on ceasing to be such an officer has completed 5 years' service or is a person to whom regulation 37(4) applies and has not again become such an officer within 12 months and has not become entitled to receive such benefits, shall be entitled to receive either—
 - (i) 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 ceased to be such an officer, or
 - (ii) 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 he or she were 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.”;
- (c) after paragraph (6) there shall be inserted the following paragraph—
- “(7) For the purposes of paragraph (1)(a)(vi) the prescribed conditions are that the Secretary of State has certified that the officer's retirement is by reason of redundancy or is in the interests of the efficiency of the service in which he is employed.”.

Amendment of regulation 9 of the principal regulations

4. In paragraph (4) of regulation 9 of the principal regulations (rates of pension and retiring allowance) for “regulation 8(5)(a)” there shall be substituted “regulation 8(5)(b)(i)”.

Amendment of regulation 13 of the principal regulations

5. In regulation 13 of the principal regulations (death gratuity), in paragraph (1)(c), after the word “regulation” there shall be inserted “8(1)(a)(iii) or”.

Amendment of regulation 22 of the principal regulations

6. In regulation 22 of the principal regulations (intervals in service due to illness or injury), in paragraph (2), at the end of proviso (ii) there shall be inserted the word "and", and at the end of that paragraph for "; and" there shall be substituted a full stop.

Amendment of regulation 40 of the principal regulations

7. In regulation 40 of the principal regulations (reduction of pension in certain cases), in paragraph (4)(e), after proviso (2) there shall be inserted the following proviso—

"(3) for the purpose of regulation 40(4)(e)(ii), proviso (i) of regulation 36(1) shall not be applicable in the calculation of the average remuneration;"

Amendment of regulation 44 of the principal regulations

8. In regulation 44(7) of the principal regulations (benefits of certain officers who have opted to retain certain rights)—

(a) for sub-paragraph (d) there shall be substituted the following sub-paragraphs—

"(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, 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;

(dd) where such a benefit as is referred to in paragraph (7)(d) becomes payable on or after 16th September 1981 the annual average of the officer's remuneration over a final period of his service shall be uprated to equal his remuneration as ascertained under the provision of the enactment or scheme applicable in his case in respect of his final year of paid employment which reckons for the calculation of benefit in accordance with paragraph (7)(d):

Provided that—

- (i) the provisions contained in provisos (a) and (i) to regulation 36(1) shall be applicable in determining the officer's remuneration in respect of his final year of paid employment;
 - (ii) where a person ceased to be an officer to whom this regulation applies before 16th September 1981 the benefit shall be uprated by such a 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 final period of his service to a point 6 months before the end of that period;"
- (b) in sub-paragraphs (e)(i) and (ii) and paragraph (i) of the proviso for the words "(uprated in accordance with paragraph (7)(d))" there shall be substituted the words "(calculated by reference to remuneration uprated in accordance with paragraph (7)(dd))";
- (c) in sub-paragraph (e)(i) and paragraph (i) of the proviso for the words "so uprated" there shall be substituted the words "so calculated";
- (d) in sub-paragraph (f) for the words ", and in the application of regulation 40" onwards there shall be substituted the words "as if the reference in paragraph 4(e)(ii) of regulation 40 to average remuneration were a reference to average remuneration uprated in accordance with paragraph (7)(dd) of this regulation except that proviso (i) to

regulation 36(1), which would otherwise apply by virtue of proviso (i) to that paragraph (7)(dd), shall not apply in relation to such employment which commenced, or which by virtue of regulation 40(3)(b) is deemed to have commenced, on or after 16th September 1981.”;

(e) in sub-paragraph (h) after the words “an officer to whom” there shall be inserted the words “proviso (ii) to paragraph (7)(dd) of”.

Amendment of regulation 78 of the principal regulations

9. In regulation 78 of the principal regulations (modifications relating to certain part-time specialists)—

(a) in paragraph (2) after the words “part-time employment” there shall be inserted the words “before 1st January 1980” and after the words “the whole of his time,” there shall be inserted the words “any period of employment as a maximum part-time specialist,”;

(b) after paragraph (2) there shall be inserted the following paragraph—

“(3) In this regulation “maximum part-time specialist” means—

(a) a specialist appointed to a whole-time specialist post who is paid 10/11ths of the remuneration which he would have received if he had been employed whole-time, or

(b) a specialist appointed to a whole-time specialist post before 1st January 1980 who retains the right to which he was entitled on 31st December 1979 to be paid 9/11ths of the remuneration which he would have received if he had been employed whole-time.”.

Amendment of regulation 80 of the principal regulations

10. In paragraph (1) of regulation 80 of the principal regulations (rights on transfer to other employment) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c)(i) 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); or

(ii) he has ceased to be employed in the circumstances mentioned in regulation 8(7) and has repaid to the Secretary of State any sums paid to him on account of benefit under these or the previous regulations;”.

Amendment of Schedule 11 to the principal regulations

11. In Schedule 11 to the principal regulations (certain transitional provisions), in paragraph 7, in proviso (ii) for the word “on” there shall be substituted the word “or”.

Retrospective effect of regulations

12. Regulations 3 (except regulation 3(a)(ii)), 4 and 10 shall have effect as from 29th October 1976. Regulation 3(a)(ii) shall have effect as from 1st April 1980.

Signed by the authority of the Secretary of State for Social Services.

Gerard Vaughan,
Minister of State,

11th August 1981.

Department of Health and Social Security.

Consent of the Minister for the Civil Service given under her official seal on 14th August 1981.

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

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the National Health Service (Superannuation) Regulations 1980 which provide for the superannuation of persons engaged in the National Health Service.

Regulations 2 and 9 contain amendments to take account of the changes brought about by the introduction of new terms and conditions of service of consultants and other senior hospital medical and dental staff. Regulation 8 provides for the benefits of certain officers who have chosen to remain subject to the terms of certain superannuation schemes instead of participating in the National Health Service Superannuation Scheme established by the regulations to be uprated in accordance with a new formula. This formula ensures that those benefits are more closely related to those payable under the National Health Service Superannuation Scheme. The benefits payable to former officers who retired or who elected not to remain subject to one of the other superannuation schemes before the coming into operation of these regulations are not affected.

Provision is made by the amendments contained in regulations 3 and 10—

- (a) for paying immediate benefit to officers of employing authorities who are prematurely retired by reason of redundancy or in the interests of the service in which they are employed, and
- (b) for making a transfer payment in respect of any such officer who, within a certain period, takes up new employment in which he participates in an approved superannuation scheme and has repaid to the Secretary of State any sums received by him on account of benefit under the regulations.

Some minor amendments of the superannuation regulations are also made.

In accordance with section 12(1) of the Superannuation Act 1972 regulations 3 (except for regulation 3(a)(ii)), 4 and 10 have retrospective effect as from 29th October 1976. Regulation 3(a)(ii) has retrospective effect as from 1st April 1980.

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