
STATUTORY INSTRUMENTS

1987 No. 2218

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Superannuation)
Amendment Regulations 1987**

Made - - - - *18th December 1987*
Laid before Parliament *8th January 1988*
Coming into force - - *29th January 1988*

The Secretary of State for Social Services, in exercise of the powers conferred by sections 10(1), (2) and (3) and 12(1) and (2) of, and paragraphs 3, 6, 8 and 13 of Schedule 3 to, the Superannuation Act 1972⁽¹⁾ 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⁽²⁾ and with the consent of the Treasury⁽³⁾, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Superannuation) Amendment Regulations 1987 and shall come into force on 29th January 1988.

(2) In these Regulations “the principal Regulations” means the National Health Service (Superannuation) Regulations 1980⁽⁴⁾.

Amendment of regulation 3 of the principal Regulations

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

(a) after the definition of “appointed day” there shall be inserted the following definition—

(1) 1972 c. 11; section 10(1)(a) was amended by Schedule 5 to the National Health Service Reorganisation Act 1973 (c. 32).
(2) See section 10(4) of the Superannuation Act 1972.
(3) See section 10(1) and the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2.
(4) S.I. 1980/362, amended by S.I. 1981/1205, 1982/288, 1765, 1985/39.

- ““appropriate policy” means a policy of insurance or annuity contract which provides an annuity which satisfies requirements prescribed under paragraph 13(2) (b) of Schedule 1A to the Pensions Act;”(5);
- (b) in the definition of “mental health officer” for “any medical specialist who devotes” there shall be substituted “a maximum part-time specialist as defined in regulation 78(3) who devotes the whole or”;
- (c) after the definition of “statutory scheme” there shall be inserted the following definition—
 ““superannuation scheme” means an “occupational pension scheme” within the meaning of section 66(1) of the Pensions Act;”;
- (d) in the definition of “temporary additional session” after “extra notional half-day” there shall be added “, or in the case of a specialist to whom sub-paragraph (a) of regulation 78(3) applies any session in excess of 10 in any one week regardless of its length,”.

Amendment of regulation 8 of the principal Regulations

3. In regulation 8 of the principal Regulations (officer’s pension and retiring allowance)—
- (a) in paragraph (1)(a)(iv) “regulation 37(4) or” shall be omitted;
- (b) in paragraph (5)(b) “or is a person to whom regulation 37(4) applies” shall be omitted.

Amendment of regulation 13 of the principal Regulations

4. In regulation 13 of the principal Regulations (death gratuity)—
- (a) in paragraph (1) after “at the time of his death” there shall be inserted “and he has not elected by notice to the Secretary of State that she shall be excluded”;
- (b) in paragraph (3) there shall be inserted at the beginning “Except in any case to which any proviso to regulation 14(1) applies and”;
- (c) in paragraph (4)—
- (i) for the words from “Where” to “calculated” there shall be substituted “Where the death referred to in paragraph (1) was of a married woman, this regulation shall apply”, and
- (ii) “in this regulation” shall be omitted;
- (d) after paragraph (6) there shall be inserted the following paragraph—
 “(7) Notice to the Secretary of State under paragraph (1) shall be given in writing and may similarly be cancelled.”.

Amendment of regulation 14 of the principal Regulations

5. In regulation 14 of the principal Regulations (widow’s pension) in proviso (iii) to paragraph (1) for “15th December” there shall be substituted “16th December”.

Amendment of regulation 15 of the principal Regulations

6. In regulation 15(2)(b) of the principal Regulations (child’s allowance)—
- (a) in head (i) after “profession or vocation” there shall be inserted “in respect of which he does not receive remuneration of more than the allowable maximum”;

(5) Schedule 1A was inserted by section 2 of, and Schedule 1 to, the Social Security Act 1985 (c. 53), and is amended by section 86 of, and paragraphs 29 and 30 of Schedule 10 to, the Social Security Act 1986 (c. 50). Paragraph 13 is modified by the Personal and Occupational Pension Schemes (Modification of Enactments) Regulations 1987 (S.I. 1987/1116).

- (b) for head (ii) there shall be substituted the following head—
- “(ii) by reason of permanent ill-health or infirmity of mind or body was at the time of the death of that person incapable, or at a time when head (i) above applied to him became incapable, of earning his own living and has at all times subsequently remained incapable.”;
- (c) after head (ii) there shall be inserted “and in head (i) above “allowable maximum” means the sum of £1,177 a year as increased from time to time by the amount of the increase, rounded up to the nearest pound, which would be applied under Part I of the Pensions (Increase) Act 1971 (disregarding for this purpose the words “for a period of not less than two years” in section 3(3)(d) of that Act) to a pension of £1,177 a year first awarded on 6th April 1987 and as increased also by the annual amount (if any) of essential expenses necessarily incurred for the purposes of the full-time training.”**(6)**.

Amendment of regulation 16 of the principal Regulations

7. In regulation 16(3)(a)(ii) of the principal Regulations (limited duration pensions for widows and dependent children) after “profession or vocation” there shall be inserted “in respect of which he was not receiving remuneration of more than the allowable maximum as defined in regulation 15(2) (b), or was in a break in such instruction or training”.

Amendment of regulation 19 of the principal Regulations

8. In regulation 19 of the principal Regulations (power to compound small benefits)—
- (a) in paragraph (1) after “death gratuity” there shall be inserted, in both places where those words occur, “, widow’s pension and child’s allowance”;
- (b) in paragraph (2) for “in relation to” there shall be substituted “where the annual sum is”;
- (c) after paragraph (2) there shall be inserted the following paragraph—
- “(2A) Where a person has died and the annual amount of the pension payable to his widow is less than £104 the Secretary of State may discharge his liability in respect of the pension by the payment of a lump sum representing its capital value.”;
- (d) paragraph (3) shall be omitted.

Amendment of regulation 20 of the principal Regulations

9. In regulation 20 of the principal Regulations (guaranteed minimum pension under the Pensions Act)—
- (a) in paragraph (1) for “paragraph (3)” there shall be substituted “paragraphs (2A) and (3)”;
- (b) after paragraph (2) there shall be inserted the following paragraph—
- “(2A) Where payment of an officer’s guaranteed minimum pension is secured by an appropriate policy his earnings factors shall be determined (for the purposes of section 35(2) of the Pensions Act) without reference to any order that comes into force under section 21 of that Act, but the weekly equivalent mentioned in that subsection of that Act shall be increased by the minimum rate of increase specified in regulation 22(3) of the Occupational Pension Schemes (Contracting-out) Regulations 1984.”.

(6) 1971 c. 56 Part I was amended by the Superannuation Act 1972 (c. 11), section 29(1) and Schedule 6, paragraphs 84 to 86; the Pension (Increase) Act 1974 (c. 9), section 3(2) and (3); the Social Security Pensions Act 1975 (c. 60), section 65(3) and Schedule 5; the Children Act 1975 (c. 72), section 108(1)(b) and Schedule 4, Part I, and S.I. 1972/1299, article 3.

Amendment of regulation 21 of the principal Regulations

10. In regulation 21 of the principal Regulations (reckoning as service of previous periods of employment)—

- (a) in paragraph (1)(c)(i), for “6 months” there shall be substituted “1 year”;
- (b) in paragraph (1)(c)(ii) there shall be added at the end “from that scheme.”;
- (c) for paragraph (3) there shall be substituted the following paragraph—

“(3) Subject to paragraphs (4) and (6), where a person enters employment as an officer and paragraph (1) does not apply to him, and in consequence of his service in previous employment he has accrued rights to benefits under a superannuation scheme (whether or not his rights are preserved in that scheme or have been transferred to and are held under one or more such schemes or are appropriately secured for the purposes of section 52C of the Pensions Act by one or more appropriate policies) that service 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 12 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 relation to some or all of his accrued rights from—
 - (i) the trustees or managers of the superannuation scheme under which some or all of those rights are held, or
 - (ii) from the insurance company with whom an appropriate policy securing some or all of those rights is held;

and

- (b) those trustees or managers or that insurance company makes a transfer payment in respect of some or all of those rights to the Secretary of State, and, when the Secretary of State so requests, indicating the period of service in respect of which it is made.”;
- (d) in paragraph (4) from “, and the contributing service reckonable in respect of any part of the former employment” to the end shall be omitted;
- (e) for paragraph (6)(c) there shall be substituted the following sub-paragraph—
 - “(c) decline to accept a transfer payment in respect of a person under paragraph (3), if it does not exceed the annual amount of the guaranteed minimum pension for which the Secretary of State would have been liable as a result of accepting it multiplied by the factor appropriate to that person, as set out in column 2 of the following table opposite his age, as at the date when the Secretary of State is requested to accept the transfer payment, as set out in column 1—

Age	Appropriate factor
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12”.

Amendment of regulation 25 of the principal Regulations

- 11.** In regulation 25(11)(7) of the principal Regulations (purchase of added years)—
- (a) for “ceased to make payments” there shall be substituted “failed or ceased to make payment”;
 - (b) after “liable to pay and” there shall be inserted “, except in a case where payment was not made by reason of his absence from duty without leave,”;
 - (c) for sub-paragraph (d) there shall be substituted the following sub-paragraph—
 - “(d) if sub-paragraph (c) of this paragraph has applied to him, his election under paragraph (1)(b) shall continue to have effect if—
 - (i) having been absent from duty without leave, he ceases within 12 months to be so absent (while remaining an officer), or
 - (ii) having ceased to be an officer in circumstances other than those mentioned in sub-paragraph (a) of this paragraph, he again becomes an officer within 12 months in circumstances, other than those to which regulation 21(3) applies, in which his previous service is reckonable as contributing service;”.

Amendment of regulation 27 of the principal Regulations

- 12.** In regulation 27(8) of the principal Regulations (purchase of unreduced retiring allowance)—
- (a) in paragraph (1)(a) “to make a payment in accordance with the provisions of paragraph 1 of Schedule 8; or” shall be omitted in, and shall be inserted after, head (ii);
 - (b) in paragraph (4)(b) for “he has received payment of a retiring allowance” there shall be substituted “he has become entitled to receive payment of a retiring allowance”;
 - (c) in paragraph (8)—
 - (i) for “ceased to make payments” there shall be substituted “failed or ceased to make payment”;
 - (ii) after “liable to pay and” there shall be inserted “, except in a case where payment was not made by reason of his absence from duty without leave,”; and
 - (iii) for sub-paragraph (d) there shall be substituted the following sub-paragraph—
 - “(d) if sub-paragraph (c) of this paragraph has applied to him, his election under paragraph (1)(b) shall continue to have effect if—
 - (i) having been absent from duty without leave he ceases within 12 months to be so absent (while remaining an officer), or
 - (ii) having ceased to be an officer in circumstances other than those mentioned in sub-paragraph (a) of this paragraph, he again became an officer within 12 months in circumstances, other than those to which regulation 21(3) applies, in which his previous service is reckonable as contributing service;”.

Amendment of regulation 37 of the principal Regulations

- 13.** In regulation 37 of the principal Regulations (return of contributions)—
- (a) paragraph (4) shall be omitted;

(7) Regulation 25 was substituted by [S.I. 1982/1765](#), regulation 13(1).

(8) Regulation 27 was substituted by [S.I. 1982/1765](#), regulation 16(1).

- (b) in paragraph (5)(a) “(excluding any added years)” shall be omitted after “5th April 1975” and inserted after “5 years' service”.

Amendment of regulation 40 of the principal Regulations

- 14.** In regulation 40 of the principal Regulations (reduction of pension in certain cases)—
- (a) in paragraph (3)(b)(iii)(aa) after “pay period” there shall be inserted “other than as a result of a change in the conditioned hours of a grade”;
 - (b) in sub-paragraph (e) of paragraph (4) after head (iii) (and before the provisos to the sub-paragraph) there shall be inserted “so however that if the amount arrived at is less than the amount of the pension payable the pre-retirement earnings shall be deemed to be the latter amount”.

Amendment of regulation 41 of the principal Regulations

- 15.** In regulation 41(1) of the principal Regulations (separate benefits for certain re-employed pensioners) for “payable out of public funds, whether under these regulations or otherwise, has become” there shall be substituted “under these or the previous Regulations has again become”.

Amendment of regulation 44 of the principal Regulations

- 16.** In regulation 44 of the principal Regulations (optants retaining rights corresponding with those previously enjoyed)—
- (a) in paragraph (5) for “regulations 39 and” there shall be substituted “regulation”;
 - (b) in paragraph (6) the proviso shall be omitted;
 - (c) in paragraph (7)—
 - (i) in sub-paragraph (a) “and regulation 37(4)” shall be omitted,
 - (ii) in sub-paragraph (dd)(9), in proviso (i) for “provisos (a) and (i)” there shall be substituted “proviso (i) and also, except in a case to which proviso (ii) below applies, in provisos (a) and (d)”, and
 - (iii) in sub-paragraph (h)(10) for the words from “the average remuneration” to “paragraph (7)(dd) of” there shall be substituted “any benefit (other than a benefit in respect of which sub-paragraph (dd) of this paragraph applies) which is payable to or in respect of any officer to whom” and for “proviso (i)” there shall be substituted “proviso (i)”.

Amendment of regulation 54 of the principal Regulations

- 17.** In regulation 54 of the principal Regulations (female nurses etc) “and in regulation 39(1)” shall be omitted.

Amendment of regulation 55 of the principal Regulations

- 18.** In regulation 55 of the principal Regulations (mental health officers)—
- (a) in paragraph (1)(a) “and in regulation 39(1)” shall be omitted;
 - (b) in paragraph (2)—
 - (i) in sub-paragraph (a) “and in regulation 39(1)” shall be omitted, and

(9) Sub-paragraph (dd) was inserted by [S.I. 1981/1205](#), regulation 8.

(10) Sub-paragraph (h) was amended by [S.I. 1981/1205](#), regulation 8.

- (ii) in sub-paragraph (b) for “after attainment” there shall be substituted “from and including attainment”.

Amendment of regulation 61 of the principal Regulations

- 19.** In regulation 61 of the principal Regulations (payments without proof of title)—
- (a) for “£1,500” there shall be substituted “£5,000, or such higher amount as would for the time being be applicable in relation to the death if these Regulations were an enactment to which section 1 of the Administration of Estates (Small Payments) Act 1965 (maximum amount disposable on death without representation) applied,”;
 - (b) the words from “, or in the case of illegitimacy” to “may think fit” shall be omitted.

Amendment of regulation 69 of the principal Regulations

- 20.** In regulation 69 of the principal Regulations (meaning of “remuneration” in relation to practitioners)—
- (a) in proviso (a) to paragraph (2) for “such practitioner” there shall be substituted “such practitioners”;
 - (b) in proviso (b) to paragraph (2), there shall be inserted, at the beginning, the words “subject to paragraph (8)”;
 - (c) in proviso (b)(ii) to paragraph (2), the words “(as defined in paragraph (8))” shall be omitted;
 - (d) in paragraph (8)(a) after head (ii) there shall be inserted “so however that references to “aggregate superannuable remuneration” and to “total remuneration” in proviso (b) to paragraph (2) shall not include any remuneration which is stated in any notice given under that proviso to be remuneration received by one partner which is not to form part of the partnership profits”.

Amendment of the heading to and regulation 80 of the principal Regulations

- 21.**—(1) For the heading to regulation 80 of the principal Regulations (rights on transfer to other employment) there shall be substituted the following heading “Right to a transfer payment”.
- (2) In regulation 80 of the principal Regulations—
- (a) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to paragraphs (3) and (5), where a person has left employment in which he was an officer (hereafter referred to as his “old employment”), and in consequence has ceased to be subject to these Regulations then if—

 - (a) his old employment terminated or he ceased to be subject to these Regulations before he attained the age of 60 years, or where paragraph (5) applies the age of 59 years;
 - (b) he is a person—
 - (i) who has completed 5 or more years' service, or
 - (ii) within 12 months, or within such longer period as the Secretary of State may in any particular case allow, of leaving his old employment he has taken up employment in which he participates in a superannuation scheme and he has, within 6 months after taking up that new employment, made an application such as is mentioned in sub-paragraph (d) for a transfer payment;

- (c) no benefit under these Regulations has been paid, or where paragraph (5) applies is payable, to him in relation to his old employment other than—
 - (i) a benefit consisting of a return of contributions in respect of part only of his contributing service in his old employment (whether or not repaid to the Secretary of State), or
 - (ii) a benefit consisting of a return of contributions in respect of all of his contributing service in his old employment paid to him by the Secretary of State under regulation 37 where he has repaid to the Secretary of State an amount equal to the sum received by him, or
 - (iii) any funds paid to him on account of benefit under these or the previous Regulations, where he has ceased to be employed in the circumstances mentioned in regulation 8(7) and has repaid to the Secretary of State the amount paid to him;
 - (d) he has, before attaining—
 - (i) the age of 60 years, or
 - (ii) where paragraph (5) applies the age of 59 years or 6 months after the date on which he ceased to be subject to these Regulations, whichever is later, made an application in writing to the Secretary of State for a transfer payment to be made, and has not subsequently withdrawn it in accordance with paragraph 9(a);
 - (e) he is not a person the whole of whose benefits under these Regulations have been forfeited by virtue of a direction made by the Secretary of State under regulation 62; and
 - (f) where paragraph (5) applies he has completed 5 or more years' service, the Secretary of State shall, in respect of that person provide a transfer payment, calculated in accordance with Part I of Schedule 2, to be used at that person's option in one or more of the ways, set out in paragraph 13(2) of Schedule 1A to the Pensions Act.”;
- (b) paragraph (1A)(11) shall be omitted;
 - (c) in paragraph (2) for “new employment” there shall be substituted “employment”;
 - (d) in paragraph (4) for “, regulation 20(3)(c)(ii) and regulation 81” there shall be substituted “and regulation 20(3)(c)(ii)”;
 - (e) after paragraph (4) there shall be added the following paragraphs—
 - “(5) This paragraph applies where a person opts to have his transfer payment, or any portion of it, made to one or more insurance companies.
 - (6) Subject to paragraph (7) where the Secretary of State is to make a transfer payment he shall do so—
 - (a) within 12 months of the date on which an application under paragraph (1)(d) is received by him; or
 - (b) if the person in respect of whom the transfer payment is to be made—
 - (i) ceased to be subject to these Regulations on a date prior to his attaining the age of 59 years, and
 - (ii) made his application for a transfer payment within 6 months of that date, by the date on which he attains the age of 60 years,

whichever is the earlier.

(7) Where proceedings are pending under regulation 62 the Secretary of State shall be under no obligation to make any transfer payment before the end of the period of 3 months after the conclusion of the action under that regulation.

(8) A person may exercise his option, as described in paragraph (1), in different ways in relation to different portions of his transfer payment, provided that he exercises his option in relation to each and every portion of it.

(a) (9) An application for a transfer payment to be made may be withdrawn by a member by giving notice in writing to the Secretary of State, but such an application will be of no effect if prior to the date of receiving it the Secretary of State has entered into an agreement with a third party to use the whole or any part of the member's transfer payment in one of the ways set out in paragraph 13 of Schedule 1A to the Pensions Act; and

(b) A member who withdraws an application may make another."

Amendment of regulation 82 of the principal Regulations

22. In regulation 82 of the principal Regulations (provisions relating to approved employment)—

(a) in paragraph (1)—

(i) "(other than a person who is entitled to benefits under regulation 8(1)(a)(iv))" shall be omitted,

(ii) after "become entitled to" there shall be inserted "receive payment of", and

(iii) for "3 months" there shall, in both places where those words occur, be substituted "6 months";

(b) in paragraph (2)(c) after "officer" there shall be inserted "so however that for the purpose of calculating any death gratuity head (i) of regulation 13(2)(a) (average remuneration) shall be disregarded";

(c) paragraph (5) shall be omitted.

Amendment of Schedule 1 to the principal Regulations

23. In paragraph 1(d)(12) of Schedule 1 to the principal Regulations (allocation to spouse or dependant) for "£78" there shall be substituted "£104".

Substitution for Schedule 2 to the principal Regulations

24. For Schedule 2 to the principal Regulations there shall be substituted Schedule 2 set out in the Schedule to these Regulations.

Amendment of Schedule 7 to the principal Regulations

25. In paragraph 4 of Schedule 7(13) to the principal Regulations (purchase of added years) after sub-paragraph (1) there shall be inserted the following sub-paragraph—

"(1A) Notwithstanding head (ii) of regulation 34(1)(a), any period of service referred to in that head shall be reckonable at its full length for the purpose of determining the maximum number of years of additional contributing service that an officer may elect to purchase."

(12) Paragraph 1(d) was amended by [S.I. 1982/1765](#), regulation 25.

(13) Schedule 7 was substituted by [S.I. 1982/1765](#), Schedule 1.

Revocations

26. Regulations 39 (conditions attaching to grant of pension) and 81 (specified transfers before 6th April 1975) of the principal Regulations are revoked.

Application and retrospective effect of Regulations

27.—(1) Regulation 4(a) of these Regulations shall not apply in relation to any person who ceased to be an officer before these Regulations came into operation.

(2) Regulation 22(b) of these Regulations shall not apply in relation to any benefit which is being paid or may become payable under the principal Regulations to or in respect of any person who, having served in an employment or office service which qualifies persons to participate in the benefits for which those Regulations provide, has ceased to serve or has died before these Regulations came into operation.

(3) Regulation 6(b) of these Regulations shall have effect from 4th July 1981, and regulation 19(a) from 11th May 1984.

(4) Regulations 21 and 24 shall not have effect—

(a) in relation to any person who has completed 5 or more years' service as an officer and whose employment as such an officer terminated before 1st January 1986 (or who ceased to be subject to the principal Regulations before that date), so as to allow him to exercise an option under regulation 80 of the principal Regulations which would not have been available to him had these Regulations not have been made; or

(b) in relation—

(i) to transfer payments made by the Secretary of State to statutory schemes, or schemes which fall to be treated by him as statutory schemes for the purposes of Schedule 2 to the principal Regulations, where an application was received by him before 6th April 1988, and

(ii) to transfer payments made by such schemes to the Secretary of State before that date.

(5) Where the whole, or any part of, a transfer payment made in respect of a person—

(a) falls to be calculated by reference to service rendered by him before the coming into force of these Regulations;

(b) is to be used by the Secretary of State, at that person's option, to acquire transfer credits in an occupational pension scheme; and

(c) would as a consequence of the amendments made to the principal Regulations by regulations 21 and 24 of these Regulations result in the amount or value of those transfer credits being reduced,

that transfer payment, or that part of it, shall be calculated as if regulations 21 and 24 of these Regulations had not been made.

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

16th December 1987

Skelmersdale
Parliamentary Under-Secretary of State,
Department of Health and Social Security

We consent to the making of these Regulations.

18th December 1987

Michael Neubert
David Lightbown
Lord Commissioners of Her Majesty's Treasury

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SCHEDULE

Regulation 24

SCHEDULE SUBSTITUTED FOR SCHEDULE 2 OF THE PRINCIPAL REGULATIONS

“SCHEDULE 2

Regulations 21(4) and 80(1)

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. Subject to the provisions of paragraphs 2, 3, 4, 6 and 7, a transfer payment to be made in accordance with the provisions of regulation 80 in respect of a person shall be—

- (a) the capitalised value of his accrued rights and any associated rights under the Pensions (Increase) Act 1971 (as amended by the Pensions (Increase) Act 1974 (c. 9)), less a sum, if any, in respect of any state scheme premium which the Secretary of State has paid and not recovered in respect of a period of service included in the valuation of those rights; together with
- (b) where the transfer payment is, without reasonable excuse, not made within 6 months of the material date and it is not to be made to a statutory scheme (or a scheme being treated by the Secretary of State as a statutory scheme for the purposes of this Schedule)—
 - (i) interest, if any, calculated on a daily basis over the period from the material date to the date on which the transfer payment is made, at the rate set out in regulation 4(4) (a) of the Occupational Pension Schemes (Transfer Values) Regulations 1985 or, if it is greater
 - (ii) the amount by which the transfer payment falls short of what it would have been if the material date had been the date on which the transfer payment was made.

2. In any case where the Secretary of State has directed that part of a person’s benefits under these Regulations shall be forfeited any transfer payment payable in respect of that person shall be reduced by the capitalised value of that part of those benefits.

3. Where a person requests that a transfer payment be made to a superannuation scheme—

- (a) which is not contracted out within the meaning of section 32 of the Pensions Act;
- (b) the trustees or managers of that scheme are able or willing to have transferred to it only the liability for a member’s accrued rights other than his and his widow’s rights to guaranteed minimum pensions; and
- (c) he does not require the Secretary of State to use that portion of his transfer payment that represents his guaranteed minimum pensions in one of the ways specified in regulation 80(1),

then his transfer payment shall be reduced by the deduction of an amount sufficient for the Secretary of State to meet his liability in respect of that person’s and his widow’s guaranteed minimum pensions.

4. In this Schedule—

- (a) “accrued rights” means the rights which have accrued in respect of a person under these Regulations at the material date, or which would have accrued in respect of him if the period of service necessary to satisfy the requirements of regulation 8(1)(a)(iv) had been the period which he had completed at that date;

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- (b) “capitalised value” means actuarial value at the material date, expressed in terms of money having regard to investment conditions and the contingencies on which benefits are, or are to be, payable under these Regulations;
- (c) “material date” means the date on which the person left employment in which he was an officer or, if it is later, the date on which he made an application which he has not subsequently withdrawn for a transfer payment; and
- (d) “state scheme premium” means a state scheme premium under Part III of the Pensions Act.

5. Where one or more transfer payments have been made to the Secretary of State in respect of a member any transfer payment made by him shall be at least equal to the aggregate of those transfer payments and any contributions made by that person under regulation 7, 25 or 27, except where it falls to be made to a statutory scheme, (or a scheme being treated by the Secretary of State as a statutory scheme for the purposes of this Schedule).

6. A transfer payment made under this Schedule shall be at least equal in amount to the cash equivalent, if any, to which a person would otherwise be entitled to under Part II of Schedule 1A to the Pensions Act.

PART II

CALCULATION OF CREDITED SERVICE AND CREDITED PRACTITIONER'S REMUNERATION

7. Where a transfer payment has been made to, and accepted by, the Secretary of State, there shall be credited to the officer in respect of whom the payment was made—

- (a) in the case of an officer who is not a practitioner a period of contributing service calculated in accordance with paragraph 8; and
- (b) in the case of an officer who is a practitioner a period of contributing service and an associated amount of remuneration calculated in accordance with paragraph 9.

8. For the purposes of paragraph 7(a) (contributing service to be credited to an officer who is not a practitioner)—

- (a) where the transfer payment—
 - (i) is made by the trustees or managers of a statutory scheme, or any other scheme which is at the appropriate date treated by the Secretary of State as a statutory scheme for the purposes of this Schedule,
 - (ii) represents all of the officer’s accrued rights in that scheme, and
 - (iii) has been calculated in a manner consistent with the methods adopted and assumptions made by the Secretary of State in determining the amount of transfer payments to be made to schemes which are, or which fall to be treated as, statutory schemes under Part I of this Schedule,

the period of contributing service to be credited to the officer shall be equal to the period of service which if used to calculate a transfer payment to a superannuation scheme which is, or which falls to be treated as, a statutory scheme under Part I of this Schedule would produce an amount equal to the transfer payment received by the Secretary of State, and in making the calculation regard shall be had to the officer’s age, rate of pensionable pay, marital status and, in addition, to any other factor notified to the Secretary of State by the trustees or managers of the scheme making the payment as having been taken into account in determining its amount; and

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- (b) in any other case the period of contributing service credited to the officer shall be calculated in a manner consistent with the methods adopted and assumptions made by the Secretary of State in determining the amount of transfer payments to be made to superannuation schemes (which do not fall to be treated as statutory schemes) under Part I of this Schedule, due allowance being given for the expected increase in the average remuneration of an officer of the same age as the officer in question between the material date and the date on which the particular officer in respect of whom the transfer payment was made would attain the age of 60 years.

9.—(1) For the purposes of paragraph 7(b) the period of contributing service credited to an officer who is a practitioner shall be equal to—

- (a) in the case of a transfer payment made by an insurance company—
 - (i) where the payment is in respect of all of the officer’s rights as secured by the appropriate policy, the period of service which gave rise to such of his accrued rights which were initially secured by it, and
 - (ii) where the payment represents part only of his rights, that period of service shall be reduced proportionally; and
- (b) in any other case, the period of service which was taken into account by the trustees or managers of the superannuation scheme making the payment in determining the amount of it.

(2) For the purposes of paragraph 7(b)—

- (a) the amount of associated remuneration to be credited to an officer who is a practitioner shall be of an amount which, using the rate of pension accrual applicable to an officer who is not such a practitioner, would produce an accrued pension under these Regulations equal in value to the transfer payment received by the Secretary of State, and the manner in which that amount is calculated shall be consistent with the methods to be adopted and the assumptions to be made by the Secretary of State—
 - (i) in a case where the transfer payment is made by a scheme which is a statutory scheme, or any other scheme which is at the appropriate date treated by the Secretary of State as a statutory scheme for the purposes of this Schedule, under paragraph 8(a), and
 - (ii) in any other case under paragraph 8(b);
- (b) remuneration credited in accordance with paragraph (a) of this sub-paragraph shall be added to the officer’s remuneration for the financial year in which the appropriate date falls, and in this regard no account shall be taken of the limit on the remuneration of dental practitioners mentioned in regulation 69; and
- (c) no remuneration other than that specified in this sub-paragraph shall be credited to the officer as a result of the contributing service credited to him in consequence of the transfer payment in question.

10. In this part of this Schedule—

- (a) “appropriate date” means the date on which the person in respect of whom the transfer payment is made became such an officer, or if the transfer payment is received more than 12 months after that date, the date on which it is received; and
- (b) “associated remuneration” means the amount of remuneration to be credited to an officer who is a practitioner and which is associated with the period of contributing service credited to that officer as a result of a transfer payment.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Superannuation) Regulations 1980 (“the 1980 Regulations”). Changes of substance to the 1980 Regulations are as follows:—

- in regulation 3 the definitions of “mental health officer” and “temporary additional session” are amended, and two new definitions (of “appropriate policy” and “superannuation scheme”) are inserted;
- regulation 13 is amended to allow for a person to elect that his widow be excluded from entitlement to a death gratuity, and to provide for the provisions for entitlement to a death gratuity to apply to a widower as to a widow (regulation 4);
- regulations 15 and 16 are amended to introduce an earnings limit (initially £1,177) for children receiving full-time training in respect of whom a child’s allowance is payable or who qualify a widow for increased pension entitlement (regulations 5 to 7); in addition regulation 15 is amended to allow for an allowance to continue to be payable in respect of a child who was not permanently incapacitated at the time of the officer’s death but who subsequently became so while the allowance was still payable (regulation 6(b));
- regulation 19 is amended to provide for commutation of a death gratuity, a contingent widow’s pension and a child’s allowance, and commutation of a widow’s pension of less than £104 (regulation 8);
- regulation 20 is amended to provide for the exclusion of officers’ guaranteed minimum pensions from revaluation under section 21 of the Social Security Pensions Act 1975 where those pensions are appropriately secured by a policy of insurance or annuity contract, within the meaning of section 52C of that Act, following a transfer payment (in such circumstances they are to be revalued by a fixed percentage);
- regulation 21 is amended and a new Part II of Schedule 2 substituted, in particular—
- to introduce a method of calculating credited service and credited practitioner’s remuneration consistent with the methods adopted and the assumptions made in determining a transfer payment under regulation 80, and Part I of Schedule 2, as amended by regulations 21 and 24 of these Regulations (regulations 10 and 24 and the Schedule);
- regulations 25 and 27 are amended, in particular to clarify the position where a person who has made an election to purchase added years or an unreduced retiring allowance is absent without leave (regulations 11 and 12);
- regulation 40 is amended to introduce minor easements in relation to re-employment earnings deductible from a pension (regulation 14);
- regulation 61 is amended, in particular to increase from £1,500 to £5,000 (or higher applicable amount) the maximum amount payable on death without proof of title (regulation 19(a));
- regulation 80 is amended, in particular to provide that an officer’s right to a transfer payment shall be at least equal to his right to a cash equivalent under paragraph 12 of Schedule 1A to the Social Security Pensions Act 1975 (as inserted by section 2 of, and Schedule 1 to, the Social Security Act 1985), and so that in exercising his choice as to how his transfer payment is to be used an officer has available at least as broad a choice as is available to him under that Schedule to that Act (regulations 21 and 24 and the Schedule);

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- regulation 82 is amended, in particular to provide that in calculating the benefits payable on death in approved employment the first of the three methods of calculating a death gratuity is to be disregarded (regulation 22);
- paragraph 1(d) of Schedule 1 is amended by increasing the minimum part of a pension which may be surrendered for allocation to a spouse or dependant to that sufficient to secure an annual pension of £104 instead of £78 (regulation 23);
- paragraph 4 of Schedule 7 is amended so that any period of service which is normally reckonable at half length is to be reckonable at its full length for the purpose of determining the maximum number of additional years which may be purchased (regulation 25).

A number of minor and consequential amendments are also made. Regulation 27 provides for savings and for the application and retrospective effect of the Regulations. Under powers conferred by section 12(1) of the Superannuation Act 1972, regulation 6(b) has effect from 4th July 1981, regulation 19(a) from 11th May 1984 (in relation to deaths on or after that date).