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STATUTORY INSTRUMENTS

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**1989 No. 711**

**PENSIONS**

**The Pensions Increase (Approved Schemes) (National Health Service) Amendment Regulations 1989**

<i>Made</i>	- - - -	<i>21st April 1989</i>
<i>Laid before Parliament</i>		<i>24th April 1989</i>
<i>Coming into force</i>	- -	<i>15th May 1989</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 13(2), (4) and (5) of the Pensions (Increase) Act 1971<sup>(1)</sup> and of all other powers enabling him in that behalf, with the approval of the Treasury<sup>(2)</sup>, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Pensions Increase (Approved Schemes) (National Health Service) Amendment Regulations 1989, and shall come into force on 15th May 1989.

**Amendment of Regulations**

2.—(1) The Pensions Increase (Approved Schemes) (National Health Service) Regulations 1976<sup>(3)</sup> shall be amended in accordance with the provisions of this regulation.

(2) In regulation 2(1) (interpretation)–

(a) for the definition of “reckonable service” there shall be substituted the following definition–

““reckonable service” has the meaning assigned to it by the civil service regulations, in relation to a person to whom regulation 4C applies; by the local government regulations, in relation to a person to whom regulation 4D applies; and by the schedule to these regulations, in relation to any other person;”;

(b) for the words ““regulation 75(1) optant” means a person to whom the provisions of regulation 75(1) of the 1961 regulations” there shall be substituted the words ““regulation 79(1) optant” means a person to whom the provisions of regulation 79(1) of the 1980 regulations”;

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<sup>(1)</sup> 1971 c. 56.

<sup>(2)</sup> See the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2.

<sup>(3)</sup> S.I. 1976/1451.

- (c) in the definition of “superannuation scheme” for “75(1)” there shall be substituted “79(1)”;
  - (d) in the definition of “superannuable under the Regulations” for the words “43, 45 and 75 of the 1961 regulations” there shall be substituted the words “44, 48 and 79 of the 1980 regulations”;
  - (e) in the definition of “the previous regulations” for the words “25th July 1961” there shall be substituted the words “6th March 1980” and after the words “National Health Service Act 1946” there shall be inserted “or section 10 of the Superannuation Act 1972(4)”;
  - (f) in the definition of “the Regulations” for the words “the 1961 regulations” there shall be substituted the words “the 1980 regulations”;
  - (g) for the definition of “the 1961 regulations” there shall be substituted the following definition—  
“the 1980 regulations” means the National Health Service (Superannuation) Regulations 1980”(5);
  - (h) after the definition of “the retirement regulations” there shall be inserted the following definitions—  
“the civil service regulations” means the Pensions Increase (Federated Superannuation Scheme for Nurses and Hospital Officers) (Civil Service) Regulations 1972(6); “the local government regulations” means the Pensions Increase (Approved Schemes) (Local Government) Regulations 1972(7);”.
- (3) In regulation 3 (application), for the words “described in regulation 4 hereof” there shall be substituted the words “to whom any of regulations 4 to 4D of these regulations applies”.
- (4) For the heading to regulation 4 there shall be substituted the heading “Persons remaining in or leaving reckonable service with an employing authority who are entitled to benefits under a superannuation scheme”.
- (5) In regulation 4(1), for the words “These regulations” there shall be substituted the words “This regulation”.
- (6) In regulation 4(1)(b), for the words “75(1) optant” there shall be substituted the words “79(1) optant”.
- (7) In regulation 4(1)(c)(ii), for the words “disabled by physical or mental infirmity” there shall be substituted the words “permanently incapacitated by physical or mental infirmity from engaging in any regular full-time employment”.
- (8) In regulation 4(2), for the words “75(1) optant” there shall be substituted the words “79(1) optant” and for the words “these regulations insofar as they apply” there shall be substituted the words “this regulation insofar as it applies”.
- (9) After regulation 4 there shall be inserted the following regulations—

**“Persons becoming superannuable under the Regulations on relinquishing options or on re-employment**

**4A.** This regulation shall apply to any person who—

- (a) either—
  - (i) has ceased to be employed by an employing authority, and immediately before doing so was in that employment subject to a superannuation scheme, or

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(4) 1972 c. 11.

(5) S.I. 1980/362, amended by S.I. 1981/1205, 1982/288, 1765, 1985/39, 1987/2218.

(6) S.I. 1972/395, amended by S.I. 1973/1068, 1984/1751.

(7) S.I. 1972/931, amended by S.I. 1975/503.

- (ii) has ceased to be subject to a superannuation scheme while remaining in the employment of an employing authority;
- and
- (b) within 12 months, or such longer period as the Secretary of State may allow, of that cessation has become superannuable under the Regulations; and
- (c) does not satisfy the requirements of regulation 4(1)(a)(ii) of these regulations but would satisfy them if the length of time during which he has been superannuable under the Regulations were added both to the length of time which he has spent in reckonable service and to his age at the time of the ceasing mentioned in paragraph (a) of this regulation.

**Persons entering other employment on leaving reckonable service with an employing authority**

**4B.** This regulation shall apply to any person who—

- (a) has ceased to be employed by an employing authority and immediately before doing so was in that employment subject to a superannuation scheme; and
- (b) within 12 months, or such longer period as the Secretary of State may allow, of that cessation has entered other employment which is either—
  - (i) employment related to the provision of health or allied services, or
  - (ii) employment in the civil service of the State, local government, education, the police or the fire service;
- and
- (c) is not a person—
  - (i) to whom the civil service regulations apply, or
  - (ii) to whom those regulations would apply if regulation 3(2) of those regulations were disregarded, or
  - (iii) to whom the local government regulations apply;
- and
- (d) has within 6 months, or such longer period as the Secretary of State may allow, of the coming into operation of this regulation, applied for, and been granted, the Secretary of State's approval, for the purposes of this regulation, of the employment referred to in paragraph (b) of this regulation; and
- (e) does not satisfy the requirements of regulation 4(1)(a)(ii) of these regulations but would satisfy them if the length of time during which he has been employed in the employment which is approved by the Secretary of State under paragraph (d) of this regulation were added both to the length of time which he has spent in reckonable service and to his age at the time of the ceasing mentioned in paragraph (a) of this regulation.

**Special provision for persons becoming superannuable under the Regulations after employment in the civil service**

**4C.** This regulation shall apply to any person who—

- (a) either—
  - (i) has ceased to be employed in the civil service of the State, and immediately before doing so was in that employment subject to a superannuation scheme, or

- (ii) has ceased to be subject to a superannuation scheme while remaining in employment in the civil service of the State;
- and
- (b) within 12 months, or such longer period as the Secretary of State may allow, of that cessation has become superannuable under the Regulations; and
- (c) does not qualify for a payment under the civil service regulations for any one or more of the following reasons (but for no other reason), namely—
  - (i) that when he ceased to be in employment in the civil service of the State he had not completed the requisite period of reckonable service,
  - (ii) that when he ceased to be in that employment he had not attained the requisite age, or
  - (iii) that he ceased to be in that employment before 12th April 1972,
 but would qualify for a payment under those regulations if the length of time during which he has been superannuable under the Regulations were added both to the length of time which he has spent in reckonable service and to his age at the time of the ceasing mentioned in paragraph (a) of this regulation and the application of the civil service regulations were not restricted to persons retiring from the civil service of the State on or after 12th April 1972.

**Special provision for persons becoming superannuable under the Regulations after employment by a local authority**

**4D.** This regulation shall apply to any person who—

- (a) either—
  - (i) has ceased to be employed by a local authority and immediately before doing so was in that employment subject to a superannuation scheme, or
  - (ii) has ceased to be subject to a superannuation scheme while remaining in the employment of a local authority;
- and
- (b) within 12 months, or such longer period as the Secretary of State may allow, of that cessation has become superannuable under the Regulations; and
- (c) does not qualify for a payment under the local government regulations for either or both of the following reasons (but for no other reason), namely—
  - (i) that when he ceased to be in that employment he had not completed the requisite period of reckonable service, or
  - (ii) that when he ceased to be in that employment he had not attained the requisite age,
 but would qualify for a payment under those regulations if the length of time during which he has been superannuable under the Regulations were added both to the length of time which he has spent in reckonable service and to his age at the time of the ceasing mentioned in paragraph (a) of this regulation.”

(10) Regulations 5(1) and (7) (notional pension and lump sum) shall be amended by the substitution, for the words “these regulations apply”, of the words “any of regulations 4 to 4D of these regulations applies”.

(11) Regulation 6 (payments of benefits equivalent to statutory pension increases) shall be redesignated paragraph (1) of regulation 6, and for the words from “The Secretary of State shall,” to “these regulations apply” there shall be substituted the words “Subject to paragraph (2) of

this regulation, the Secretary of State shall, in respect of the appropriate period as specified in paragraph (3) of this regulation, pay to a person to whom any of regulations 4 to 4D of these regulations applies”.

(12) After paragraph (1) of regulation 6 there shall be added the following paragraphs—

“(2) The Secretary of State shall not pay the amounts referred to in paragraph (1) of this regulation to any person to whom any of regulations 4A to 4D of these regulations applies unless the person first makes a claim in writing to the Secretary of State.

(3) The appropriate period referred to in paragraph (1) of this regulation is—

(a) in relation to a person to whom regulation 4 of these regulations applies—

(i) any period beginning on or after 1st March 1975 if he is a regulation 79(1) optant, and

(ii) any period beginning on or after 1st December 1974 if he is not;  
and

(b) in relation to a person to whom any of regulations 4A to 4D of these regulations applies, any period beginning on or after 15th May 1989.”

(13) In paragraph 1(a) of the schedule (meaning of reckonable service) for the words “75(1) optant” there shall be substituted the words “79(1) optant” and in paragraph 4 of the schedule for the words “22 of the 1961 regulations” there shall be substituted the words “24 of the 1980 regulations”.

Signed by authority of the Secretary of State for Health.

19th April 1989

*D. Mellor*  
Minister of State,  
Department of Health

We approve

21st April 1989

*David Lightbown*  
*Nigel Lawson*  
Lords Commissioners of Her Majesty’s Treasury

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Pensions Increase (Approved Schemes) (National Health Service) Regulations 1976 (“the 1976 Regulations”). Those Regulations provide for payments to certain persons who, having elected to secure their superannuation benefits through schemes which operate by way of insurance policies to produce lump sums or annuities, or both, on retirement (persons who so elect being known as “optants”), have retired from employment in the National Health Service, and would have been eligible for increases under the Pensions (Increase) Act 1971 had they been pensionable under the National Health Service superannuation scheme.

The main provisions of these Regulations bring within the scope of the 1976 Regulations certain persons who were hitherto not covered, namely persons who have ceased to be optants and within 12 months (or a longer period if allowed by the Secretary of State) of so ceasing have either become members of the National Health Service superannuation scheme or entered employment which is related to the provision of health or allied services and approved for the purpose of these Regulations by the Secretary of State. Provision is also made for persons who made similar arrangements in relation to their superannuation benefits whilst employed in the civil service or local government but subsequently became superannuable under the National Health Service superannuation scheme. Persons in these various categories may have ceased to be optants at any time but are entitled to payments by virtue of these Regulations only from the operative date of these Regulations.

In addition these Regulations make an amendment to the wording in the 1976 Regulations which relates to those persons who qualify for payments partly by reason of disablement.