

1972 No. 1604 (S.123)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (Superannuation) (Scotland)
 Amendment (No. 2) Regulations 1972**

<i>Made</i> - - - -	24th October 1972
<i>Laid before Parliament</i>	1st November 1972
<i>Coming into Operation</i>	22nd November 1972

In exercise of the powers conferred on me by sections 10 and 12 of the Superannuation Act 1972(a), section 110 of the National Insurance Act 1965(b) (I having been determined by the Treasury to be the appropriate Minister to make regulations under that section for modifying the scheme for the provision of pensions and other benefits established by regulations made under section 66 of the National Health Service (Scotland) Act 1947(c) and of all other powers enabling me in that behalf, after consulting representatives of persons likely to be affected by these regulations, and with the consent of the Minister for the Civil Service, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Health Service (Superannuation) (Scotland) Amendment (No. 2) Regulations 1972 and shall come into operation on 22nd November 1972.

Interpretation

2.—(1) In these regulations “the principal regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1961 to 1972(d) and other words and expressions used have the same meaning as in the principal regulations.

(2) The Interpretation Act 1889(e) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

Amendments relating to the reckoning of service

3. In regulation 2(2) of the principal regulations (which defines expressions used in the regulations) the words from ““non-contributing service”” to “regulation 30:” shall be deleted.

(a) 1972 c. 11.

(b) 1965 c. 51.

(c) 1947 c. 27.

(d) S.I. 1961/1398, 1966/1522, 1972/1356 (1961 II, p. 2697; 1966 III, p. 4268; 1972 III, p. 4192).

(e) 1889 c. 63.

4. For regulation 34 of the principal regulations (calculation of service) there shall be substituted—

“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 45)—

(a) any of the following periods of service which is not reckonable as contributing service by virtue of regulation 30 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 is reckonable by virtue of regulation 19 and which was reckonable in an employment referred to in paragraph (3) of that regulation 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 for all purposes other than a calculation under schedule 3 all periods of contributing service shall be aggregated, and where two 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 45) 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 10(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 less;

(b) if his contributing service exceeds 10 years, a period equal to whichever is the greater 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 less; or

(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 less;

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

5. In the proviso to regulation 11(1) of the principal regulations (scales of pension and retiring allowance) the words after “average remuneration” shall be deleted.

6. In the proviso to regulation 22(2) of the principal regulations (reckoning of service in certain continuing employments) for the words “number of years”, wherever they occur, there shall be substituted “period”.

7. In the proviso to regulation 24(1) of the principal regulations (reckoning of qualifying service) for the words “number of years”, wherever they occur, there shall be substituted “period”.

8. In regulation 25(1) of the principal regulations (reckoning of certain periods)—

(a) for the words “as if any such period was non-contributing service” there shall be substituted “as if any such period were reckonable as contributing service at half its length only”;

(b) for the words “shall be reckonable as service” there shall be substituted “shall be reckonable as contributing service at its full length”.

9. In regulation 30 of the principal regulations (reckoning of contributing and non-contributing service)—

(a) in paragraph (7) after the words “the second schedule in order” for the remainder of the sub-paragraph there shall be substituted “that the completed years of any service which is reckonable as contributing service at half length may be reckoned in full.”;

(b) in paragraph (8) the words from the beginning to “regulation” shall be deleted.

10. In regulation 34A of the principal regulations (calculation of part-time service) for paragraph (7) there shall be substituted—

“(7) Notwithstanding anything in regulation 34(3), where an officer becomes entitled to a pension under regulation 10(1)(a)(i) in respect of service which consists of or includes service in part-time employment, his aggregated service, as calculated under regulations 34(1) and 34A(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.”.

11. In regulation 42(2) of the principal regulations (separate benefits for re-employed pensioners) for the words “number of years of service under these regulations by which those years, together with the years of” there shall be substituted “service under these regulations, which, together with the” and for the word “exceed” there shall be substituted “exceeds”.

12. In regulation 45 of the principal regulations (benefits of officers not exercising certain options) for paragraph (3)(a) and (b) there shall be substituted—

“(a) any officer to whom paragraph (1) of this regulation 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) one-half per cent. in respect of each complete year of the aggregate of his contributing service reckonable in respect of that period; and

(ii) one-quarter 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;

(b) any officer to whom paragraph (2) or (2A) of this regulation applies shall be increased by the percentages in (i) and (ii) of the foregoing sub-paragraph for any period of service in respect of which he would have been entitled (by virtue of any provisions mentioned in the said paragraph (2) or of the rights mentioned in the said paragraph (2A)) to have his retiring allowance (or any corresponding benefit, however named) increased if, on leaving the employment mentioned in either of the said paragraphs, he had become entitled to that allowance or other such corresponding benefit:”.

13. In regulation 51(3) of the principal regulations (modification of benefits and obligations) for proviso (ii) there shall be substituted—

“(ii) for the purpose of calculating the amount of any reduction under this paragraph, where an officer’s service is increased by virtue of regulation 34(3) or 34A(7), he shall be deemed to have paid reduced contributions under this regulation in respect of that added service;”.

14. In proviso (iii) to regulation 77(2) of the principal regulations (approved employment) for the words “number of years” where they first appear there shall be substituted “period of service”, and thereafter, wherever they appear, there shall be substituted “period”.

15. In schedule 2 of the principal regulations (additional contributory payments)—

(a) in paragraph 1 for the words “The sum payable by an officer who desires to reckon any completed year of non-contributing service as contributing service” there shall be substituted “The sum payable by an officer in order that any completed year of service which is reckonable as contributing service at half length may be reckoned in full”;

(b) in paragraph 6—

- (i) in sub-paragraph (3) after the words “Such total amount is the sum payable by the officer” for the remainder of the sub-paragraph there shall be substituted “in order that one year of the service which he is entitled to reckon on the material date at half length may be reckoned in full”;
- (ii) in sub-paragraph (6) for the words “to reckon as contributing service more than one year of the non-contributing service which he is entitled to reckon at the material date” there shall be substituted “that more than one year of the service which he is entitled to reckon on the material date at half length may be reckoned in full”;
- (iii) in sub-paragraph (7) the word “non-contributing” shall be deleted.

Amendments relating to the meaning of average remuneration

16. In regulation 35 of the principal regulations (meaning of average remuneration) for the words from the beginning of paragraph (1) to the end of proviso (a) there shall be substituted—

“(1) For the purposes of these regulations, the average remuneration of a person in relation to his employment as an officer by an employing authority means his remuneration in respect of his final year of such 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 hold his employment as an officer or the date on which he became an officer mentioned in regulation 9(4) 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 two consecutive years 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;
- (ii) if his employment was for less than three years and his remuneration in the year 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;”.

17. In regulation 11(A)(2) of the principal regulations (additional benefits for certain officers), for the words from “average remuneration” to the end of the paragraph there shall be substituted “fees mentioned in paragraph (1) of this regulation had been his remuneration:

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 35(1), whether his remuneration was higher in any year preceding the final year;
- (ii) proviso (g) to regulation 35(1) shall not apply to such fees.”.

Amendments to the minimum qualifying period of service

18. In the principal regulations—

- (a) in regulation 10(1) and (2) for the word “ten” wherever it occurs there shall be substituted “five”;
- (b) in regulation 10(1)(b) for the words “(i)” to “service” there shall be substituted “of this paragraph”;
- (c) in regulation 16(1) for the word “ten” wherever it occurs there shall be substituted “five”;
- (d) in regulation 16A(2)(a) for the word “ten” there shall be substituted “five”;
- (e) in regulation 50 for the word “ten” there shall be substituted “five”.

19. In regulation 15(1) of the principal regulations (death gratuity)—

- (a) in sub-paragraphs (a) and (d) the words “, and at the date of his death he had completed five years’ service” shall be deleted;
- (b) in sub-paragraph (b) the words “after completing five years’ service” shall be deleted.

20. In regulation 63 of the principal regulations (scales of pension and retiring allowance for a practitioner)—

- (a) in paragraph 3(b) after “service is” there shall be inserted “ten years but”;
- (b) in paragraph 5(b) after “practitioner is” there shall be inserted “ten years but”.

Rate of widow’s pension for the first three months immediately following an officer’s death

21. In regulation 16 of the principal regulations (widow’s pension)—

- (a) in paragraph 3 for the words “paragraph (3A)” there shall be substituted “paragraphs (3A) and (3B)”;
- (b) at the beginning of paragraph (3A) there shall be inserted “Subject to the provisions of paragraph (3B) of this regulation,”;
- (c) after paragraph (3A) there shall be inserted the following paragraphs—
 - “(3B) A widow entitled to receive a pension by virtue of the provisions of paragraph (1) of this regulation shall, for the first three months immediately following the death of her husband, receive a widow’s pension at one of the following rates—

- (a) where her husband was a person mentioned in paragraph (1)(a) of this regulation and he was not an officer at the date of his death, at the rate at which his pension was payable at the date of his death without having regard to any reduction or suspension by reason of the operation of regulation 40;
- (b) where her husband was a person mentioned in paragraph (1)(a) of this regulation and he was an officer at the date of his death, at the aggregate of his rate of remuneration at the date of his death and the rate at which his pension was being paid at that date having regard to any reduction or suspension by reason of the operation of regulation 40;
- (c) where her husband was a person mentioned in paragraph (1)(b) of this regulation, not being a person mentioned in paragraph (1)(a) of this regulation, at the rate of his remuneration at the date of his death, so, however, that in the case of an officer whose remuneration was suspended by reason of his absence from duty he shall be deemed to be a person mentioned in paragraph (1)(a) of this regulation who had become entitled to a pension under regulation 10(1)(a)(i) on the date of his death; or
- (d) where her husband was a person mentioned in paragraph (1)(c) of this regulation, at the rate at which his pension would have been payable if he had ceased to hold his continuing employment on the date of his death:

Provided that—

- (i) a widow's pension shall not be payable at any of the rates mentioned in paragraphs (3) or (3A) of this regulation, as the case may be, whilst a widow's pension is payable at any of the rates mentioned in this paragraph;
- (ii) where the remuneration of an officer who was absent from duty by reason of illness or injury was reduced only by reason of his having become entitled to benefit under the National Insurance Acts 1965 to 1972, it shall, for the purposes of sub-paragraphs (b) and (c) of this paragraph, be deemed not to have been so reduced;
- (iii) in respect of a practitioner "remuneration" in sub-paragraphs (b) and (c) of this paragraph means the rate of his remuneration during the quarter (as defined in regulation 61(8)(b)) immediately before his death.

(3C) During the period that a widow's pension is payable at any of the rates specified in paragraph (3B) a child's allowance shall not be payable under regulation 16A in respect of any child dependent upon the widow."

Pension of limited duration

22. After regulation 16A of the principal regulations there shall be inserted the following regulations—

"Pensions of limited duration

16B.—(1) The provisions of this regulation shall apply where an officer not being an officer to whom regulation (9)(4)(d) applies dies before he has completed five years' service.

(2) A pension of limited duration (referred to in this regulation and in regulation 16C 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) of this regulation:

Provided that—

- (i) a limited pension shall not be payable to a widow who would not be entitled to receive a widow's pension by virtue of the provisions of proviso (v) to paragraph (1) or of paragraph (4) of regulation 16;
- (ii) where the remuneration of an officer who was absent from duty by reason of illness or injury was reduced only by reason of his having become entitled to benefit under the National Insurance Acts 1965 to 1972, it shall be deemed not to have been so reduced.

(3) For the purposes of this regulation "child" means a child of the officer who was dependent on the officer and who has not attained the age of sixteen years, or if sixteen years of age or over, as to whom the Secretary of State is satisfied that he is continuing to receive full-time education, and includes—

- (i) a step-child, adopted child or illegitimate child; and
- (ii) a child born during the period for which a limited pension would have been payable if such child had been living at the time of the officer's death, and in such a case such 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.

(4) The period for which a limited pension is payable shall be—

- (a) three months, if there is no child dependent upon the widow;
- (b) four and one-half months, if there is one child dependent upon the widow; or
- (c) six months, if there are two or more children dependent upon the widow.

(5) The provisions of paragraph 4 of schedule 6 shall apply in respect of a limited pension payable under paragraph (6) or (7) of this regulation.

(6) Subject to the provisions of regulation 16C(4), a limited pension shall be payable for one of the following periods at the rate specified in paragraph (2) of this regulation, to or for the benefit of any child or children who are not dependent upon his widow, if a limited pension is payable for the period mentioned in—

- (a) paragraph (4)(a), for one and one-half months for one such child or for three months for two or more such children;
- (b) paragraph (4)(b), for one and one-half months for one or more such children.

(7) Subject to the provisions of regulation 16C(4), where a widow with a child or children dependent upon her dies or remarries before her limited pension ceases to be payable, a limited pension at the rate specified in paragraph (2) of this regulation shall be paid to or for the benefit of such child or children for the remainder (if any) of the period mentioned in regulation 16C(1).

(8) In respect of a practitioner "remuneration" in paragraph (2) of this regulation means the rate of the remuneration of the practitioner during the quarter (as defined in regulation 61(8)(b)) immediately before his death.

16C.—(1) Where an officer not being an officer to whom regulation 9(4)(d) applies dies before completing five years' service and a limited pension is not payable under regulation 16B a limited pension shall be paid to or for the benefit of any child or children (as defined in regulation 16B(3)) at the rate specified in regulation 16B(2) and (8), either—

- (a) for one such child, for two months; or
- (b) for two or more such children, for four months.

(2) The provisions of paragraph 4 of schedule 6 shall apply in respect of a limited pension payable under paragraph (1) of this regulation.

(3) A limited pension shall not be payable under paragraph (1) of this regulation 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 more favourable benefit—

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

23. In regulation 77(2)(c) of the principal regulations (approved employment) after "child's allowance" there shall be inserted ", limited pensions under regulations 16B and 16C".

24. In paragraph 1 of schedule 6 to the principal regulations (child's allowance) after "this schedule" there shall be inserted "and of regulation 16C(4)".

Limit on remuneration of dental practitioner

25. In proviso (d) to regulation 61(2) of the principal regulations (meaning of "remuneration")—

- (a) in sub-paragraph (ii) after "31st March 1967" there shall be added "and on or before 31st March 1972; or";
- (b) after sub-paragraph (ii) there shall be added the following sub-paragraph—
 - "(iii) in excess of £10,000 in any financial year ending on or after 31st March 1973;".

Consequential amendments

26. In regulation 41(1) of the principal regulations (combined benefits for re-employed pensioners) after "has again become an officer," there shall be inserted "and at the time of becoming such officer was not an officer mentioned in regulation 9(4),".

27.—(1) For the purpose of Part III of the National Insurance (National Health Service Superannuation (Scotland) Scheme—Modification and Non-participation) Regulations 1966(a), as amended(b), service added under regulation 34(3) or 34A(7) of the principal regulations shall not be treated as attributable to any period of service in participating employment.

(2) Notwithstanding the provisions of Part III of the National Insurance (National Health Service Superannuation (Scotland) Scheme—Modification and Non-participation) Regulations 1966, as amended, the reduction of any pension under regulation 51 of the principal regulations or under the said Part III, shall be calculated by reference to the years and any part of a year of service, the reduction for such part of a year being an amount which bears the same proportion to the amount for a year as the number of days in that part bears to 365 days.

Date from which amendments take effect

28.—(1) Except only for the purposes of regulation 80 of the principal regulations, regulations 3 to 17 and 26 of these regulations, with the exception of regulation 34(3)(a) of the principal regulations as substituted by regulation 4 of these regulations, shall apply as from 25th March 1972 in relation to any person, who, on or after that date—

(a) was an officer; or

(b) was a person to whom regulation 10(2) of the principal regulations applied.

(2) Regulations 18 to 24 of these regulations and regulation 34(3)(a) of the principal regulations as substituted by regulation 4 of these regulations shall apply as from 1st October 1972 in relation to any person who, on or after that date—

(a) was an officer; or

(b) was a person to whom regulation 10(2) of the principal regulations applied.

(3) A person to whom regulation 20 of the principal regulations applies shall not, for the purposes of this regulation, be deemed to have ceased his employment as an officer.

Revocation

29.—(1) The provisions of the principal regulations set out in column (1) of the following table are hereby revoked to the extent mentioned in column (2) in relation to any person who, on or after the date mentioned in column (3)—

(a) was an officer;

(b) was a person to whom regulation 10(2) of the principal regulations applied; or

(c) was a person who was deemed to have ceased his employment as an officer in accordance with the provisions of regulation 20 of the principal regulations.

(a) S.I. 1966/52 (1966 I, p. 105).

(b) S.I. 1966/1227 (1966 III, p. 3290).

TABLE

Regulation	Extent of Revocation	Date
(1) regulation 11 regulation 13 regulation 30 regulation 34A regulation 35 regulation 36	(2) proviso (e) to paragraph (2) the whole regulation paragraph (6) paragraph (6) proviso (h) to paragraph (1) paragraph (6)	(3) 1st October 1972 1st October 1972 25th March 1972 25th March 1972 25th March 1972 1st October 1972

(2) Section 38 of the Interpretation Act 1889 shall apply as if these regulations were an Act of Parliament and as if the regulations revoked by these regulations were Acts of Parliament repealed by an Act of Parliament.

Gordon Campbell,
One of Her Majesty's Principal
Secretaries of State.

St. Andrew's House,
Edinburgh.

24th October 1972.

Consent of the Minister for the Civil Service
given under his Official Seal on 24th October 1972.

(L.S.)

K. H. McNeill,
Authorised by the Minister for the Civil Service.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend the National Health Service (Superannuation) (Scotland) Regulations 1961 which provide for the superannuation of persons engaged in the National Health Service in Scotland (except employees of local health authorities and local education authorities).

The main changes are—

1. the calculation of benefits is by reference to years and days of service instead of to completed half years (regulations 3 to 15);
2. where retirement is on the grounds of ill-health, a greater period of service may be credited to a person and his lump sum retiring allowance is increased by reference to such period (regulation 4);

3. the calculation of benefits is by reference to the remuneration in the best year in the last three consecutive years instead of the average over the last three years (regulations 16 and 17);

4. the minimum qualifying period for a pension is reduced from ten years to five years (regulations 18 to 20);

5. for the first three months of widowhood a widow's pension is paid at the husband's rate of remuneration if he died in service, or at the rate of his pension if he died on pension, in lieu of the normal widow's pension (regulation 21);

6. pensions of limited duration are made to the widows and children of persons who die in service before completing five years' service (regulations 22 to 24);

7. the limit on the superannuable remuneration of a dental practitioner is raised from £6,000 to £10,000 per annum (regulation 25);

8. consequential changes are made to the application to the National Health Service scheme of the National Insurance (National Health Service Superannuation (Scotland) Scheme—Modification and Non-participation) Regulations 1966, as amended (regulation 27).

Under the power in section 12 of the Superannuation Act 1972, these Regulations provide for the changes in paragraphs 1 to 3 above to apply retrospectively as from 25th March 1972 to persons who were employed on or after that date and for the changes in paragraphs 4 to 6 above to apply retrospectively as from 1st October 1972 to persons who were employed on or after that date (regulation 28).

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