

1972 No. 990

PENSIONS

**The Increase of Pensions (India, Pakistan and Burma)
Regulations 1972**

<i>Made</i> - - - -	28th June 1972
<i>Laid before Parliament</i>	10th July 1972
<i>Coming into Operation</i>	1st August 1972

In exercise of the powers conferred on me by sections 5(3) and (4), 10 and 18(2) of the Pensions (Increase) Act 1971(a), and with the approval of the Minister for the Civil Service, I hereby make the following Regulations:—

1. These Regulations may be cited as the Increase of Pensions (India, Pakistan and Burma) Regulations 1972 and shall come into operation on 1st August 1972.

2.—(1) In these Regulations the expression “ the Act ” means the Pensions (Increase) Act 1971.

(2) The Interpretation Act 1889(b) shall apply for the interpretation of and otherwise in relation to these Regulations as it applies for the interpretation of and otherwise in relation to an Act of Parliament.

3. Part I of the Act shall apply without modification in relation to any pension specified in Part I of Schedule 1 to these Regulations as if it were specified in Part I of Schedule 2 to the Act.

4. Part I of the Act shall apply in relation to any pension specified in Part II of Schedule 1 to these Regulations as if it were specified in Part I of Schedule 2 to the Act, subject to the modifications, adaptations and exceptions specified in regulations 7, 8, 9, 10, 11 and 12 of these Regulations.

5. (a) Part I of the Act shall apply in relation to any pension specified in Part III of Schedule 1 to these Regulations as if it were specified in Part I of Schedule 2 to the Act, subject to the modifications, adaptations and exceptions specified in paragraph (b) of this regulation and in regulations 7, 9, 10, 11 and 12 of these Regulations.

(b) In the case of a pension of a person who becomes eligible for the first time to receive an increase in pension by virtue of section 10(b) of the Act, section 6 of the Act shall be disregarded.

6. Part I of the Act shall apply in relation to any pension specified in paragraph 28 of Schedule 2 to the Act (pensions payable under the Judges Pensions (India and Burma) Act 1948)(c), subject to the modifications, adaptations and exceptions specified in regulations 9 and 11 of these Regulations.

(a) 1971 c. 56.

(b) 1889 c. 63.

(c) 1948 c. 4. (12, 13 & 14 Geo. 6).

7. In relation to a pension deriving from any of the Transferred Funds specified in Part I of Schedule 2 to these Regulations:—

- (a) for the purpose of ascertaining the amount of the increase in the rate of pension payable in accordance with the provisions of the Act, the annual rate of the pension before any relevant increase thereof shall be taken to be whichever is the less of the following amounts:—
- (i) the amount of the pension from time to time payable in accordance with the Rules of that Fund ; or
 - (ii) the amount which would have been payable if the pension had been paid under the Rules of the corresponding Untransferred Fund specified in Part II of Schedule 2 to these Regulations ;
- (b) the total amount of the increases which might otherwise be payable in accordance with the provisions of these Regulations shall be reduced by any amount by which the pension payable from time to time in accordance with the Rules of the Fund may exceed the amount of a pension then payable in a comparable class in accordance with the Rules of the corresponding Untransferred Fund specified in Part II of Schedule 2 to these Regulations.

8. Any pension which is described as a Supplementary pension in the Rules of the Indian Civil Service Family Pension Fund (Transferred), the Indian Military Widows' and Orphans' Fund (Transferred) or the Indian Military Service Family Pension Fund (Transferred) shall be disregarded for the purposes of the provisions of these Regulations, and any amount by which the annual amount of a pension, determined in accordance with the provisions of regulation 7(a) of these Regulations, exceeds the amount of a pension which would have resulted from subscription to the compulsory section of the Superior Services (India) Family Pension Fund (Transferred) and the Superior Services (India) Family Pension Fund (Untransferred) shall be similarly disregarded.

9. In its application to any pension specified in regulation 6 of, or in Parts II or III of Schedule 1 to, these Regulations the Act shall have effect as if:—

- (a) in section 8 for the words from “ on the day ” in line 2 of subsection (2) to the end of that subsection there were substituted the words “ immediately prior to—
- (i) 1st January 1945 as respects the determination of the 1969 standard in accordance with the provisions of section 1 of the Act ; and
 - (ii) 1st April 1947 as respects the determination of the 1971 rate in accordance with the provisions of section 6 of the Act ” ; and
- (b) section 8(3) were deleted.

10.—(1) In the case of any pension to which these Regulations apply which is payable out of the revenues of India, Pakistan or Burma, the total amount of the increases which might otherwise be payable in accordance with these Regulations shall be reduced by any amount by which the pension payable from time to time has attracted an overseas increase.

(2) In this regulation the expression “ overseas increase ” means any addition to the amount of the pension or the aggregate of two or more such additions, paid by the authority by whom the pension is payable and includes any increase, bonus or allowance so paid in respect of that pension, howsoever authorised.

11.—(1) Subject to the provisions of these Regulations, the increase payable under these Regulations in respect of a pension which has been commuted in whole or in part in accordance with the provisions of the enactment, scheme or other instrument governing the payment of the pension, shall be assessed in accordance with this regulation.

(2) For the purpose of ascertaining the increases provided for in section 1 of the Act or in any order made under section 2 of the Act, the increases shall be assessed as if the pension had not been commuted and shall then be reduced by the appropriate amount or where the pension has been commuted on two or more occasions by the aggregate of the appropriate amounts.

(3) Where a pension has been commuted prior to the 1st April 1969 and by virtue of section 6 of the Act the 1971 rate (other than the 1971 rate in relation to a pension to which section 6(2) of the Act applies) would have been ascertained by reference to an order made under subsections (4) and (5) of section 6 of the Act such order shall be disregarded and the 1971 rate which would have been ascertained by reference to that order shall be ascertained in accordance with the provisions of paragraph (4) of this regulation and the Tables in Schedule 3 to these Regulations.

(4) For the purpose of ascertaining the 1971 rate the increase shall be the aggregate of the increases determined in accordance with Tables I to VII of Schedule 3 to these Regulations, as applicable, but, before increases are calculated in accordance with

Table I in the case of commutation before 1st January 1944

Table II in the case of commutation after 31st December 1943 but before 1st October 1952

Table III in the case of commutation after 30th September 1952 but before 1st April 1956

Table IV in the case of commutation after 31st March 1956 but before 1st August 1959

Table V in the case of commutation after 31st July 1959 but before 1st January 1963

Table VI in the case of commutation after 31st December 1962 but before 1st January 1966

Table VII in the case of commutation after 31st December 1965 but before 1st April 1969,

there shall be deducted from the pension together with any increases thereon the amount of pension commuted before the latest date specified in relation to the Table concerned.

(5) In this regulation

“appropriate amount” means the amount of the increase attributable to the amount of the pension commuted as if the said amount of the pension commuted had been a pension specified in Part I of Schedule 2 to the Act and had begun on the effective date of the commutation:

Provided that

- (i) if the effective date of the commutation was before 1st April 1971, no account shall be taken of the further 18 per cent increase specified in section 1(1)(a) or the 118 per cent of the 1971 rate specified in section 6(1), of the Act ; and

(ii) as respects any increase provided for in any order made under section 2 of the Act no account shall be taken of any such increase if the effective date of commutation was before the first day of the review period to which the order relates ;

“commuted” or “commutation” refer only to any part of a pension commuted with effect from a date later than the date on which the pension had been awarded.

12. Whenever for the purpose of ascertaining any increase payable under these Regulations it is necessary to convert into sterling a pension initially payable in a currency other than sterling, the rate of exchange to be taken for the purpose of any such conversion shall be the rate of exchange between that currency and sterling in force on 6th May 1955 :

Provided that where, in accordance with the law or other instrument governing the payment of a pension, the pension is converted by the paying authority into sterling at a rate of exchange more favourable to the pensioner than that in force on the said date, then the rate of exchange to be taken shall be the rate specified in the said law or instrument.

13. Subject to the provisions of sections 5(4) and 18(2) of the Act, these Regulations shall be deemed to have taken effect from 1st September 1971.

28th June 1972.

Alec Douglas-Home,
Secretary of State for Foreign and
Commonwealth Affairs.

Consent of the Minister for the Civil Service given under his Official Seal on 28th June 1972.

A. W. Wyatt,
Authorised by the Minister
for the Civil Service.

SCHEDULE 1 Regulations 3, 4, 5, 9

PART I

PENSIONS TO WHICH THE ACT IS APPLIED WITHOUT MODIFICATION

1. Any pension specified in paragraphs 1 or 2 of Schedule 4 to the Act (Overseas Government Pensions (India, Pakistan and Burma)), which is a pension payable in respect of service as a member of either :—

- (a) the establishment of the Secretary of State in Council of India or
- (b) the staff of the High Commissioner for India or
- (c) the staff of the High Commissioner for Pakistan or
- (d) the staff of the Auditor of the Accounts of the Secretary of State for India in Council or
- (e) the staff of the Auditor of Indian Home Accounts.

2. Any pension specified in paragraphs 5 and 6 of Schedule 4 to the Act.

PART II

PENSIONS TO WHICH THE ACT IS APPLIED SUBJECT TO
MODIFICATIONS, ADAPTATIONS AND EXCEPTIONS

Any pension specified in Schedule 4 to the Act, other than those referred to in Part I above of the present Schedule.

PART III

OTHER PENSIONS TO WHICH THE ACT IS APPLIED SUBJECT TO
MODIFICATIONS, ADAPTATIONS AND EXCEPTIONS

Any pension referred to in paragraph (b) of section 10 of the Act.

SCHEDULE 2

Regulation 7

PART I

TRANSFERRED FUNDS

The Indian Civil Service Family Pension Fund (Transferred).
The Superior Services (India) Family Pension Fund (Transferred).
The Indian Military Widows' and Orphans' Fund (Transferred).
The Indian Military Service Family Pension Fund (Transferred).

PART II

UNTRANSFERRED FUNDS

The Indian Civil Service Family Pension Fund (Untransferred).
The Superior Services (India) Family Pension Fund (Untransferred).
The Indian Military Widows' and Orphans' Fund (Untransferred).
The Indian Military Service Family Pension Fund (Untransferred).

Regulation 11

SCHEDULE 3

TABLES FOR CALCULATION OF 1971 RATE

TABLE I

<i>Basic pension</i>									<i>Increase</i>
Up to £100	...	...	...	...	...	...	...	...	40%
£100·01 to £133·33	...	...	...	...	...	...	...	...	£40
£133·34 to £200	...	...	...	...	...	...	...	...	30%
£200·01 and over	...	...	...	...	...	...	...	...	£60

TABLE II

Increase is one-third of basic pension as increased (where applicable) under Table I or £26, whichever is the less.

TABLE III

Increase is 10 per cent. of basic pension only or £100, whichever is the less.

TABLE IV

Increase is 12 per cent. of basic pension as increased (where applicable) under Tables I to III.

TABLE V

Increase (a) is 12 per cent. of basic pension as increased (where applicable) under Tables I to IV, plus

Increase (b) is 25 per cent. of basic pension as increased (where applicable) under Tables I to IV or £20, whichever is the less.

TABLE VI

Increase is 16 per cent. of basic pension as increased (where applicable) under Tables I to V.

TABLE VII

Increase is 18 per cent. of basic pension as increased (where applicable) under Tables I to VI.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

1. These Regulations authorise increases of the pensions of former Judges in India and Burma and officers formerly in the civil service under the Governments of India, Pakistan and Burma, and of the derivative pensions of the dependants of these Judges and officers and of military officers who served under those Governments. In relation to the State pensions specified in Part I of Schedule 1, the increases are those authorised by Part I of the Pensions (Increase) Act 1971. In the case of pensions specified in regulation 6 (Judges of India or Burma) or in Parts II and III of Schedule 1 (pensions other than State pensions), the increases are those authorised by Part I of the Act, but subject to the modifications, adaptations and exceptions more particularly set out in regulations 4 to 12. The modifications, adaptations and exceptions deal with such matters as the date of commencement of pensions, provisions applicable to commutation, deduction of overseas increases, conversion from foreign currency into sterling, and also with the method of ascertaining the basic rate of a derivative pension payable from the Transferred Funds (Indian family pensions funds transferred to the United Kingdom under section 273(1) of the Government of India Act 1935) (26 Geo. 5 & 1 Edw. 8 c. 2).

2. These Regulations supersede the Increase of Pensions (India, Pakistan and Burma) Rules 1957 (S.I. 1957/223) and the Increase of Pensions (India, Pakistan and Burma) Regulations 1959, 1963, 1966, 1969 (S.I. 1959/1542, 1963/881, 1966/446, 1969/732).

3. These Regulations take effect retrospectively from 1st September 1971, in accordance with the powers contained in sections 5(4) and 18(2) of the Pensions (Increase) Act 1971.

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