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 STATUTORY INSTRUMENTS
 

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1973 No. 746 (S.59)

**NATIONAL HEALTH SERVICE, SCOTLAND**
**The National Health Service (Superannuation) (Scotland)  
Amendment (No. 2) Regulations 1973**

<i>Made</i> - - - -	16th April 1973
<i>Laid before Parliament</i>	27th April 1973
<i>Coming into Operation</i>	18th May 1973

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 with such representatives of persons likely to be affected by these regulations as appear to me to be appropriate, and with the consent of the Minister for the Civil Service, I hereby make the following regulations:—

*Citation and commencement*

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (Scotland) Amendment (No. 2) Regulations 1973 and shall come into operation on 18th May 1973.

(2) The National Health Service (Superannuation) (Scotland) Regulations 1961 to 1972(d) as amended(e) and these regulations may be cited together as the National Health Service (Superannuation) (Scotland) Regulations 1961 to 1973.

*Interpretation*

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

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

*Amendments relating to practitioner benefits*

3. Regulation 63 of the principal regulations (scales of pension and retiring allowance for a practitioner) shall be amended as follows:—

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| (a) 1972 c. 11.                        | (b) 1965 c. 51.                         |
| (c) 1947 c. 27.                        | (d) S.I. 1972/1356 (1972 III, p. 4192). |
| (e) S.I. 1973/304 (1973 II, p.1061).   | (g) 1889 c. 63.                         |
| (f) S.I. 1961/1398 (1961 II, p. 2697). |   |

- (1) For paragraph (2)(a) there shall be substituted—

“(2)(a) The pension to be paid in respect of service which is reckonable under these regulations as service as a practitioner shall be 1·4 per cent of the total uprated remuneration in respect of that service, and for the purposes of this sub-paragraph—

- (i) subject to regulations 65 and 68(4), a practitioner’s total uprated remuneration shall be calculated by uprating his remuneration for all reckonable service as a practitioner in each financial year in such way as the Secretary of State, after consulting such professional organisations as appear to him to be appropriate, may determine and by adding together the uprated remuneration for each financial year, and
- (ii) remuneration paid during any financial year for service as a practitioner shall be regarded as being remuneration for such service in that year or, if there was no such service in that year, in the last preceding year in which there was any such service.”.

- (2) In paragraph (2)(b) the words from “and for the purposes of this sub-paragraph” to the end of the paragraph shall be deleted.

4. The following regulation shall be inserted after regulation 67 of the principal regulations—

*“Reckoning of practitioner service and remuneration*

**68.**—(1) In order to determine the total service as a practitioner all periods of service as a practitioner shall be aggregated, and where two or more periods aggregate to 365 days or more each period of 365 days shall be reckonable as one year, service on 29th February in a leap year being disregarded.

(2) Where a pension is payable under regulation 10(1)(a)(i) to a practitioner whose service does not include any service otherwise than as a practitioner, his reckonable service shall be increased as follows—

- (a) if his contributing service does not exceed 10 years, by whichever is the less of either a period equal to such service or the period by which such service would have been increased if he had continued to be a practitioner until he had reached the age of 65 years; or
- (b) if his contributing service exceeds 10 years, by a period equal to whichever is the greater of the following—
  - (i) whichever is the less of either the period by which such service is less than 20 years or the period by which such service would have been increased if he had continued to be a practitioner until he had reached the age of 65 years; or
  - (ii) whichever is the less of either 6 years and 243 days or the period by which such service would have been increased if he had continued to be a practitioner until he had reached the age of 60 years.

(3) Where a pension is payable under regulation 10(1)(a)(i) to a practitioner whose service includes service otherwise than as a practitioner, his aggregate service as a practitioner and as an officer other than a practitioner shall be increased in the manner provided in paragraph (2) of this regulation, the period of service as a practitioner and as an officer other than a practitioner each being increased by the same proportion as the aforesaid aggregate service is increased.

(4) Where service as a practitioner is increased in accordance with paragraph (2) or (3) of this regulation, the total uprated remuneration as a practitioner shall be increased by the same proportion as the service as a practitioner is increased.”.

5. For the proviso to regulation 34(3) of the principal regulations (calculation of service) there shall be substituted—

“Provided that—

- (i) 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; and
- (ii) this paragraph shall not apply to an officer with service as a practitioner, but regulation 68(3) shall apply to such an officer as it applies to a practitioner with service otherwise than as a practitioner.”.

6. For regulation 64(2) of the principal regulations (amount of death gratuity, etc.) there shall be substituted—

“(2) For the purposes of regulation 15 and paragraphs (4) and (6) of regulation 63 the average remuneration in respect of a practitioner shall be an amount equal to the annual average of his total uprated remuneration as calculated in accordance with regulation 63(2)(a).”.

7. For regulation 65 of the principal regulations (treatment of prior officer service) there shall be substituted—

“*Prior service to be treated as practitioner service*

65. Where any person on first becoming a practitioner other than an assistant practitioner is entitled to reckon ten years or less of contributing service otherwise than as a practitioner such service shall, unless regulation 66 applies to it or the practitioner later has one year or more of employment reckonable as service otherwise than as a practitioner, be treated as service as a practitioner, the remuneration received in respect of that service being disregarded and, for the purposes of calculating any benefit, the total uprated remuneration as a practitioner being increased by the same proportion as the service as a practitioner has been increased.”.

8. For regulation 66 of the principal regulations (simultaneous employment as an officer and a practitioner) there shall be substituted—

“*Employment as an officer and as a practitioner*

66. Where a practitioner is entitled to reckon less than a year of contributing service otherwise than as a practitioner, and where an officer with previous service as a practitioner has less than one year of employment reckonable as service otherwise than as a practitioner since last ceasing to be a practitioner, such service otherwise than as a practitioner shall be treated as service as a practitioner.”.

#### *Consequential amendments*

9.—(1) In proviso (iii)(iii) to regulation 15(1) of the principal regulations (death gratuity) the words “(other than service deemed to be so reckonable under regulation 63(3)(b))” shall be deleted.

(2) In regulation 64(1)(a) of the principal regulations (amount of death gratuity, etc.) the words “(other than service deemed to be so reckonable under regulation 63(3)(b))” shall be deleted.

(3) In regulation 58(1) of the National Health Service (Superannuation) (Scotland) Amendment Regulations 1966(a) (transitional provisions) the words “as a practitioner or”, in both places where they appear, shall be deleted.

(4) In proviso (ii) to regulation 51(3) of the principal regulations (modification of benefits and obligations) after the words “or 34A(7)” there shall be inserted “or 68(2) or (3)”.

10. For the purposes of Part III of the National Insurance (National Health Service Superannuation (Scotland) Scheme—Modification and Non-participation) Regulations 1966(b), as amended(c), service added under regulation 68(2) or (3) of the principal regulations shall not be treated as attributable to any period of service in participating employment.

#### *Revocation*

11.—(1) The following regulations of the principal regulations are hereby revoked—

Regulation 42(7) and regulation 63(3)(b), (4)(b), (5)(b) and (6)(b).

(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.

#### *Date from which amendments take effect*

12. These regulations shall apply as from 25th March 1972 in relation to any person who, on or after that date, was an officer or a person to whom regulation 20 of the principal regulations applied.

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

St. Andrew's House,  
Edinburgh.  
13th April 1973.

Consent of the Minister for the Civil Service given under his Official Seal on  
16th April 1973.

*W. G. Bristow,*

(L.S.)

Authorised by the Minister for the Civil Service.

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(a) S.I. 1966/1522 (1966 III, p. 4268). (b) S.I. 1966/52 (1966 I, p. 105).  
(c) S.I. 1966/1227 (1966 III, p. 3290).

## 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 for service as a general medical or dental practitioner is related to the remuneration in each year uprated to take account of subsequent increases in levels of earnings instead of being related to the actual remuneration in each 10-year period (regulations 3, 5, 6 and 9);
2. a practitioner retiring on grounds of ill-health may be credited with a greater period of service and his uprated remuneration increased accordingly, both his pension and lump sum retiring allowance being calculated by reference to such increased remuneration (regulations 4 and 10); and
3. the provisions for the treatment of certain employment as service as a practitioner are revised to take account of the new method of calculating practitioner benefits (regulations 7 and 8).

Under the power in section 12 of the Superannuation Act 1972, these regulations have retrospective effect as from 25th March 1972 (regulation 12).

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