

1974 No. 223

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (Superannuation) (Amendment)
Regulations 1974**

Made - - - - 12th February 1974

** To be laid before Parliament*

Coming into Operation 1st April 1974

The Secretary of State for Social Services, in exercise of powers conferred upon him by sections 10 and 12 of the Superannuation Act 1972(a) 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, and with the consent of the Minister for the Civil Service, hereby makes the following regulations:—

Citation and commencement

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (Amendment) Regulations 1974 and shall come into operation on 1st April 1974.

(2) The National Health Service (Superannuation) Regulations 1961 to 1973(b) and these regulations may be cited together as the National Health Service (Superannuation) Regulations 1961 to 1974.

Interpretation

2.—(1) In these regulations “the principal regulations” means the National Health Service (Superannuation) Regulations 1961(c), as amended(b), and other words and expressions used have the same meanings as in the principal regulations.

(2) The Interpretation Act 1889(d) applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Amendment of heading to Part II of the principal regulations

3. In the heading to Part II of the principal regulations—after the words “UNDER THE ACT” there shall be inserted the words “OR THE ACT OF 1973”.

Amendment of heading to Part III of the principal regulations

4. For the heading to Part III of the principal regulations there shall be substituted—“PROVISIONS RELATING TO MEDICAL AND DENTAL PRACTITIONERS”.

*This instrument was laid before Parliament on 6th March 1974.

(a) 1972 c. 11.

(c) S.I. 1961/1441 (1961 II, p. 2824).

(b) S.I. 1973/1649 (1973 III, p. 5096).

(d) 1889 c. 63.

*Amendments relating to interpretation***5.** In regulation 2 of the principal regulations (interpretation)—*(a)* In paragraph (1)—

- (i) after the definition of “the Act of 1953” there shall be inserted the following definition—

“ “the Act of 1973” means the National Health Service Reorganisation Act 1973(a);

- (ii) in the definition of “assistant practitioner”, after the words “Executive Council” in both places where they occur there shall be inserted the words “or Family Practitioner Committee”;

- (iii) in the definition of “employing authority”, for the words “and any such other body constituted under the Act as the Minister may approve;” there shall be substituted the words “a Regional Health Authority, Area Health Authority, Area Health Authority (Teaching), and any such other body constituted under the Act or the Act of 1973 or any other Act relating to health services as the Secretary of State may approve;”;

- (iv) after the definition of “excepted officer” there shall be inserted the following definition—

“ “Family Practitioner Committee” means a Family Practitioner Committee established by an Area Health Authority under section 5(5) of the Act of 1973;”;

- (v) for the definition of “mental health officer” there shall be substituted the following definition—

“ “mental health officer” means a whole-time officer on the medical or nursing staff of a hospital used wholly or partly for the treatment of persons suffering from mental disorder who devotes the whole or substantially the whole of his time to the treatment or care of such persons, and any medical specialist who devotes substantially the whole of his time to the treatment or care of such persons, and, if the Secretary of State in a particular case so consents any other officer who, having been a mental health officer, without a break in his service and without having become entitled to any benefit under these regulations, subsequently becomes employed in a part-time capacity in any employment as aforesaid, and such other classes or descriptions of officers employed in such hospitals as aforesaid as the Secretary of State may designate.”;

- (vi) in the definition of “practitioner”, after the words “Executive Council” there shall be inserted the words “or Family Practitioner Committee”;

- (vii) after the definition of “short service gratuity” there shall be inserted the following definition—

“ “specialist” means a Consultant, Senior Hospital Medical Officer or Senior Hospital Dental Officer;”.

- (b)* For paragraph (5) there shall be substituted the following paragraph—

“(5) In these regulations any reference to a person’s becoming an officer in consequence of the acquisition of premises under section 58 of the Act (which relates to the acquisition of land required for the purposes of the Act) shall be deemed to include a reference to a person who becomes an officer in consequence of the transfer of hospitals or other premises, or any functions to the Minister or the Secretary of

State otherwise than under the Act or in consequence of any decision to administer any premises, services or functions under the Act or any other Act relating to health services, and shall also be deemed to include a reference to a person to whom the proviso to paragraph (6) of this regulation applies.”.

(c) For paragraph (6) there shall be substituted the following paragraph—

“(6) Subject to the provisions of regulation 83(3), for the purposes of these regulations a person shall not be treated as having become an officer in consequence of the acquisition of premises under section 58 of the Act unless, immediately before and at the date of acquisition he was employed at the premises, or was employed for the purposes of administering the functions or services being transferred, and entered the employment of an employing authority as an officer in consequence of that acquisition:

Provided that this paragraph shall not apply to a person who before 1st April 1974 becomes an officer of a Regional Health Authority, Area Health Authority or Area Health Authority (Teaching) after leaving the employment of a local authority in which employment, had he not left it, he would have become a transferred officer on that date.”.

Amendment relating to application of regulations

6. For regulation 4(3) of the principal regulations (application) there shall be substituted the following paragraph—

“(3) Notwithstanding anything in the foregoing provisions of this regulation, this part of these regulations shall not apply to any officer of an employing authority to whom there became or becomes payable a pension under these or the previous regulations or an annual sum under regulations made under section 44 of the National Health Service Reorganisation Act 1973, if that pension or sum is not liable to be reduced or suspended in consequence of his employment under that authority:

Provided that this paragraph shall not apply to a transferred officer who immediately before transfer was in receipt of a pension payable under these or the previous regulations.”.

Amendments relating to early retirement

7. In regulation 8 of the principal regulations (officer's pension and retiring allowance)—

(a) In paragraph (1)—

(i) in sub-paragraph (a)(iv) for the word “and” where it occurs in the third place there shall be substituted the word “or”, and

(ii) after sub-paragraph (a)(iv) there shall be added the following sub-paragraph—

“(v) he has attained the age of fifty years and has completed five years' service and has become entitled to benefits under regulations made under section 44 of the National Health Service Reorganisation Act 1973; and”.

(b) In paragraph 5(a) after the words “paragraph (1)(a)(iii)” there shall be inserted the words “or (1)(a)(v)”.

Amendments relating to employment

8. In regulation 17(1) of the principal regulations (reckoning of previous employment)—

(a) in proviso (a) after the words “the 1947 regulations” there shall be

inserted the words “or became an officer on transfer to the employment of an employing authority under the Act of 1973”;

- (b) in proviso (f) after the words “local Act contributor” there shall be inserted the words “or in the case of a person who became an officer on transfer to the employment of an employing authority under the Act of 1973 the Secretary of State has received in respect of him a transfer payment calculated in accordance with terms otherwise agreed”.

Amendments relating to reduction of pension or injury allowance in certain circumstances

9. For the proviso to regulation 39(1) of the principal regulations (reduction of pension) there shall be substituted the following proviso—

“Provided that—

- (i) the reference in sub-paragraph (a) of this paragraph to an employing authority shall not be deemed to include an employer with whom an agreement has been made under section 18 of the National Health Service (Amendment) Act 1949(a) or in respect of whom a direction has been made under section 7 of the Superannuation (Miscellaneous Provisions) Act 1967(b); and
- (ii) this paragraph shall not apply to a pension payable to a person immediately before he was transferred to the employment of an employing authority under the Act of 1973.”.

Amendments relating to benefits where option to retain previous rights exercised

10. In proviso (b) to regulation 43(1) of the principal regulations (benefits of officers who have exercised certain options), after the words “cease to have effect” there shall be inserted the words “unless in the case of an officer so employed as a result of being transferred under the Act of 1973 the Secretary of State directs otherwise”.

Amendments relating to benefits where option to retain previous rights not exercised

11. In regulation 44 of the principal regulations (benefits of officers who did not exercise certain options)—

- (a) In the proviso to paragraph 1 for the word “regulations” there shall be substituted the word “paragraph”;
- (b) after paragraph (2A) there shall be added—
“(2B) The provisions of this regulation shall also apply to an officer who was transferred to the employment of an employing authority under the Act of 1973 if immediately before transfer he enjoyed rights conferred by regulation 14 of the Local Government regulations 1954.”;
- (c) in paragraph 3(b) for the words “paragraph (2) or (2A)” there shall be substituted the words “paragraph (2), (2A) or (2B)” and after the words “in the said paragraph (2A)” there shall be inserted the words “or (2B)”.

Amendments relating to Executive Councils

12.—(1) In regulation 62 of the principal regulations (application of regulations with modifications), for the words “of an Executive Council” there shall be substituted the words “of an Area Health Authority”, and for the words “at

(a) 1949 c. 93.

(b) 1967 c. 28.

least one Executive Council” there shall be substituted the words “at least one Family Practitioner Committee”.

(2) In regulation 63 of the principal regulations (amendment of certain references to age), for the words “Executive Council” wherever they occur, there shall be substituted the words “Family Practitioner Committee”.

(3) In regulation 64 of the principal regulations (meaning of remuneration)—

(a) in sub-paragraph (2)(i) for the words “an Executive Council” there shall be substituted the words “a Family Practitioner Committee”;

(b) in proviso (a) to paragraph (2)—

(i) for the words “the Executive Council” there shall be substituted the words “the Family Practitioner Committee”, and

(ii) for the words “on the list of that Council” there shall be substituted the words “on the list of that Committee”;

(c) in proviso (b)(i) to paragraph (2)—

(i) for the words “to the responsible Council” there shall be substituted the words “to the responsible Committee”,

(ii) for the words “on the list of that Council” there shall be substituted the words “on the list of that Committee”, and

(iii) for the words “of any other Executive Council” there shall be substituted the words “of any other Family Practitioner Committee”;

(d) in proviso (b)(ii) to paragraph (2)—

(i) for the words “to the responsible Council” there shall be substituted the words “to the responsible Committee”,

(ii) for the words “on the list of that Council” there shall be substituted the words “on the list of that Committee”,

(iii) for the words “and of any other Executive Council” there shall be substituted the words “and of any other Family Practitioner Committee”,

(iv) for the words “by the responsible Council” there shall be substituted the words “by the responsible Committee”, and

(v) for the words “sum allocated by the Council” there shall be substituted the words “sum allocated by the Committee”;

(e) in proviso (b)(iii) to paragraph (2) the words “responsible Council” shall be deleted;

(f) in proviso (b)(iv) to paragraph (2)—

(i) for the words “on the list of the Executive Council” there shall be substituted the words “on the list of the Family Practitioner Committee”, and

(ii) for the words “and of any other Executive Council” there shall be substituted the words “and of any other Family Practitioner Committee”;

(g) in proviso (d) to paragraph (2) after the words “Executive Council” there shall be inserted the words “or Family Practitioner Committee”;

(h) in proviso (e) to paragraph (2) for the words “Executive Council” there shall be substituted the words “Family Practitioner Committee”;

(i) in paragraph (4)—

(i) in sub-paragraph (a) for the words “Executive Council” there shall be substituted the words “Family Practitioner Committee”;

- (ii) in sub-paragraph (b)(i) for the words "other than an Executive Council" there shall be substituted the words "otherwise than as a practitioner";
- (iii) in sub-paragraph (b)(ii) for the words "to the responsible Council" there shall be substituted the words "to the responsible Committee", and for the words "by an employing authority other than an Executive Council" there shall be substituted the words "in respect of employment with an employing authority otherwise than as a practitioner";
- (j) in paragraph (6) for the words "Executive Council" there shall be substituted the words "Family Practitioner Committee";
- (k) in paragraph (8)—
 - (i) in sub-paragraph (a)(i) for the words "under an Executive Council" there shall be substituted the words "as a practitioner on the list of a Family Practitioner Committee";
 - (ii) in sub-paragraph (a)(ii) for the words "responsible Council" there shall be substituted the words "responsible Committee", and for the words "other than an Executive Council" there shall be substituted the words "otherwise than as a practitioner";
 - (iii) for sub-paragraph (c) there shall be substituted the following paragraph—

"(c) "responsible Committee" means, in the case of a partnership whose members are on the list of a single Family Practitioner Committee, that Committee, and in the case of a partnership one or more of whose members is on the list of more than one Family Practitioner Committee, the Committee which under the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1972(a) or under those regulations as at any time amended or re-enacted, is responsible for assembling information about the total number of persons on the lists of the practitioner or practitioners concerned."

(4) In regulation 73(b) of the principal regulations (further modifications with respect to assistant practitioners) for the words "Executive Council" there shall be substituted the words "Area Health Authority".

Amendments relating to part-time employment

13. In paragraph 2(2)(c) of schedule 7 to the principal regulations (part-time employments)—

- (a) in proviso (i) the word "and" shall be deleted;
- (b) in proviso (ii) for the word "schedule." there shall be substituted the words "schedule; and", and
- (c) after proviso (ii) there shall be added the following proviso—

"(iii) an officer shall be deemed to have made an election taking effect as from 1st April 1974 if he was transferred as a part-time officer in consequence of the Act of 1973 and was in superannuable part-time employment at 31st March 1974."

(a) S.I. 1972/1602 (1972 III, p. 4656).

Amendments relating to specialists

14. In regulation 74 of the principal regulations (modifications relating to certain part-time specialists)—

- (a) in paragraph 1 for the words “during which he devoted substantially the whole of his time to the performance of specialist services pursuant to section 3 of the Act” there shall be substituted the words “as a specialist occupying substantially the whole of his time”;
- (b) in paragraph 2 for the words “during which the officer devoted substantially the whole of his time to the performance of specialist services pursuant to section 3 of the Act” there shall be substituted the words “as a specialist occupying substantially the whole of his time”.

15. In regulation 75(1) of the principal regulations (continuation of contracts or policies of insurance in certain cases)—

- (a) for sub-paragraphs (1)(a) and (1)(b) there shall be substituted the following sub-paragraphs—
 - “(a) in relation to a practitioner other than a part-time specialist means his remuneration as defined in regulation 64;
 - (b) in relation to a part-time specialist has the meaning assigned to it by regulation 2(1); and”;
- (b) in paragraph (3) for the words “a person rendering part-time specialist services pursuant to section 3 of the Act” there shall be substituted the words “a part-time specialist”.

Revocation

16.—(1) Regulation 59 of the principal regulations is hereby revoked.

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

Date from which the amendments take effect

17. The amendments shall have effect from 1st April 1974 with the exception of regulations 5, 6, 8, 9 and 11 which shall take effect as from 1st September 1973.

Keith Joseph,
Secretary of State for Social Services.

11th February 1974.

Consent of the Minister for the Civil Service given under his Official Seal on 12th February 1974.

(L.S.)

W. G. Bristow,
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) Regulations 1961 which provide for the superannuation of persons engaged in the National Health Service (except employees of local health authorities and local education authorities).

The main changes are—

- (a) Local authority employees who are transferred to employment in the National Health Service under the National Health Service Reorganisation Act 1973 will have their accrued superannuation rights automatically transferred to the National Health Service superannuation scheme. Transferred employees will retain any existing rights to an enhanced lump sum retiring allowance under Local Government Regulations and will also have the right to remain subject to the superannuation terms and conditions which they enjoyed immediately prior to transfer (Regulations 5 and 11).
- (b) Local authority employees who are in receipt of pensions payable under the National Health Service (Superannuation) Regulations by reason of previous employment in the National Health Service, and who are transferred to the National Health Service under the National Health Service Reorganisation Act 1973 will not have their pensions reduced in respect of their earnings in the National Health Service and will be able to contribute to the National Health Service scheme provided they are otherwise eligible (Regulations 6, 8 and 9).
- (c) Various amendments have been made in the text of the Regulations to accord with the text of the National Health Service Reorganisation Act 1973 (Regulations 12, 14 and 15).

In accordance with section 12(1) of the Superannuation Act 1972 Regulations 5, 6, 8, 9 and 11 of these Regulations have retrospective effect as from 1st September 1973 (Regulation 17).

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