

1976 No. 1690 (S. 135)**PENSIONS****The Pensions Increase (Approved Schemes) (National Health Service) (Scotland) Regulations 1976**

<i>Made - - - -</i>	<i>6th October 1976</i>
<i>Laid before Parliament</i>	<i>20th October 1976</i>
<i>Coming into Operation</i>	<i>10th November 1976</i>

In exercise of the powers conferred on me by section 13(2), (4) and (5) of and Schedule 6 to the Pensions (Increase) Act 1971(a), and of all other powers enabling me in that behalf, and with the approval of the Minister for the Civil Service, I hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Pensions Increase (Approved Schemes) (National Health Service) (Scotland) Regulations 1976 and shall come into operation on 10th November 1976.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

“the Act of 1971” means the Pensions (Increase) Act 1971 as amended by sections 25 and 29 of, and Schedules 6 and 8 to, the Superannuation Act 1972(b);

“dependant”, in relation to a woman, means a person who is to the satisfaction of the Secretary of State wholly or mainly supported by that woman and who either has not attained the age of 17 years or is receiving full-time instruction at an educational establishment or is undergoing training for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years;

“employing authority” means an authority which is, or is deemed to be, an employing authority for the purposes of the regulations;

“official pension” has the meaning assigned to it by section 5(1) of the Act of 1971;

“reckonable service”, in relation to a person, has the meaning assigned to it by the schedule to these regulations;

“regulation 72(1) optant” means a person to whom the provisions of regulation 72(1) of the 1961 regulations or the corresponding provisions of any previous regulations, apply or applied, but does not include a person to whom payments under the aforesaid provisions were discontinued prior to 1st October 1971 by reason of his voluntarily ceasing to maintain a contract or policy of insurance described in the said provisions before the maturity date of the policy.

(a) 1971 c. 56.

(b) 1972 c. 11.

“superannuation scheme” means the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers, the arrangements which apply or applied to a regulation 72(1) optant and any other scheme approved by the Minister for the Civil Service for the purposes of section 13(2)(b) of the Act of 1971;

“superannuable under the Regulations”, in relation to a person, means entitled to participate in the superannuation benefits provided by the Regulations (other than regulations 44, 46 and 72 of the 1961 regulations or the corresponding provisions of any previous regulations);

“the compensation regulations” means the National Health Service (Compensation) (Scotland) Regulations 1974(a) or the National Health Service (Compensation) Regulations 1971(b); and any reference to the compensation regulations shall include a reference to the National Health Service (Transfer of Officers and Compensation) (Scotland) Regulations 1948(c), as amended (d); and any reference to a numbered regulation in the compensation regulations shall include a reference to the corresponding regulation in the said regulations of 1948;

“the previous regulations” means any regulations made prior to 21st July 1961 under section 66(1) of the National Health Service Act (Scotland) 1947(e);

“the Regulations”, in relation to any person, means the 1961 regulations or such previous regulations as were in force at the date on which that person satisfied the requirements which would qualify a person for a pension under the Regulations;

“the 1961 regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1961(f) as amended (g); and

“the retirement regulations” means the National Health Service Reorganisation (Retirement of Senior Officers) (Scotland) Regulations 1974(h), as amended (i).

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

(3) In these regulations, unless the context otherwise requires, references to any enactment or regulations shall be construed as references to that enactment or those regulations as amended or extended by any other enactment or regulations, or to the provisions of that enactment or those regulations as continued by any other enactment or regulations, or to that enactment or those regulations as deemed to have been made under any other enactment or regulations.

Application of these regulations

3. These regulations shall apply for the payment to persons described in regulation 4 hereof of the amounts described in regulation 6.

Persons to whom these regulations apply

4.—(1) These regulations shall apply to any person who has attained age 70 or ceased to be employed by an employing authority; and

(a) S.I. 1974/1869 (1974 III, p. 6427).

(c) S.I. 1948/1465 (Rev. XV, p. 1031; 1948 I, p. 2595).

(d) S.I. 1960/799 (1960 II, p. 2148).

(f) S.I. 1961/1398 (1961 II, p. 2697).

(h) S.I. 1974/182 (1974 I, p. 642).

(j) 1889 c. 63.

(b) S.I. 1971/254 (1971 I, p. 867).

(e) 1947 c. 27.

(g) S.I. 1975/1376 (1975 II, p. 4693).

(i) S.I. 1975/7 (1975 I, p. 8).

- (a) immediately before attaining that age or ceasing to be so employed—
 - (i) was in that employment subject to a superannuation scheme; and
 - (ii) had completed the minimum period of reckonable service and had satisfied any other requirements which would qualify a person for a pension under the Regulations either—
 - (A) immediately upon ceasing such employment; or
 - (B) subsequently upon reaching such age as is specified in the Regulations; and
- (b) unless he is or was a regulation 72(1) optant, has received or has become entitled to receive payment of any retirement benefit under a superannuation scheme; and
- (c) either—
 - (i) has attained the age of 55 years and, in the case of a person to whom paragraph (1)(a)(ii)(B) of this regulation applies, has attained the specified age; or
 - (ii) has retired on account of physical or mental infirmity, or has satisfied the Secretary of State that he is disabled by physical or mental infirmity; or
 - (iii) is a woman who has at least one dependant.

(2) Notwithstanding the provisions of paragraph (1) of this regulation, in the case of a person to whom paragraph (1)(a)(ii)(B) of this regulation applies who, within 12 months of ceasing to be employed by an employing authority, or as a regulation 72(1) optant, enters into any of the employments specified in paragraph 2 of the schedule to these regulations in respect of which the requirements of paragraph 3(a) of that schedule have been fulfilled, these regulations in so far as they apply to a person who has not attained age 70 shall apply only in respect of any further termination of employment under an employing authority and not in respect of any previous termination.

Notional pension and lump sum

5.—(1) There shall be ascribed to each person to whom these regulations apply a notional pension calculated on the same basis as a pension would have been calculated if he had been superannuable under the Regulations in respect of his reckonable service.

(2) If the Secretary of State is unable to establish the amount of a person's remuneration, the remuneration to be taken into account in calculating the notional pension of that person shall be such amount as the Secretary of State may consider equitable having regard to all the relevant circumstances of the person's employment during the period of his reckonable service.

(3) Where a person is receiving an official pension, the notional pension shall be reduced by an amount determined by the Secretary of State as representing that part of the official pension which is referable to his reckonable service.

(4) Where the amount of a notional pension ascribed to any person does not exceed £26 a year, these regulations shall not apply to him unless he is receiving an official pension payable by the Secretary of State.

(5) In calculating a notional pension in respect of a person to whom a notional pension was ascribed under the Pensions Increase (Approved Schemes) (National

Health Service) (Scotland) Regulations 1968(a), as amended(b), any fraction of a pound shall be treated as a whole pound.

(6) Notwithstanding the provisions of paragraph (1) of this regulation, the notional pension ascribed to a person under the Pensions Increase (Approved Schemes) (National Health Service) (Scotland) Regulations 1972(c) prior to the coming into operation of these regulations shall be his notional pension for the purposes of these regulations.

(7) Where a person to whom these regulations apply leaves employment in circumstances in which, if the Regulations had applied, he would have been awarded a lump sum retiring allowance which he would not have become entitled to receive until he

(a) attained such age as is specified in the Regulations; or

(b) became permanently incapacitated before attaining that age,

a notional lump sum retiring allowance equal to 3 times the annual amount of the notional pension shall be ascribed to him.

Payments of benefits equivalent to statutory pension increases

6. The Secretary of State shall, in respect of any period beginning on or after 1st March 1975 in relation to a regulation 72(1) optant or 1st December 1974 in relation to any other person, pay to a person to whom these regulations apply amounts equal to the benefits which would have been conferred on him by the Act of 1971 if—

(a) he had been eligible under the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 for a pension of the same amount as his notional pension as calculated under paragraphs (1) to (6) of regulation 5 of these regulations, or a lump sum of the same amount as his notional lump sum retiring allowance as calculated under paragraph (7) of regulation 5 of these regulations, or both such pension and lump sum as the case may be, beginning on the day after the last day of his reckonable service excluding any period specified in paragraph 1(c) of the schedule to these regulations; and

(b) any allowance which, but for the Act of 1971, would have been paid to him under the Pensions Increase (Approved Schemes) (National Health Service) (Scotland) Regulations 1968, as amended, were a relevant increase within the meaning of section 6(10) of that Act.

Revocation

7.—(1) The Pensions Increase (Approved Schemes) (National Health Service) (Scotland) Regulations 1972 are hereby revoked with effect from 1st December 1974.

(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.

(a) S.I. 1968/1299 (1968 II, p. 3619).
(c) S.I. 1972/1354 (1972 III, p. 4179).

(b) S.I. 1969/1878 (1969 III, p. 5819).

Bruce Millan,
One of Her Majesty's Principal
Secretaries of State.

New St. Andrew's House,
EDINBURGH.

5th October 1976.

Approval of the Minister for the Civil Service given under his Official Seal on
6th October 1976.

(L.S.) *K. H. McNeill,*
Authorised by the Minister for the Civil Service.

SCHEDULE

Regulations 2(1), 4(2) and 6(a)

MEANING OF RECKONABLE SERVICE

1. Subject to the provisions of this schedule, a person's reckonable service shall be—
 - (a) in the case of a person who has ceased to be employed as a regulation 72(1) optant, a period equivalent to the aggregate of any periods of employment as such an optant, or as an optant subject to corresponding provisions in force in England and Wales or Northern Ireland; or
 - (b) in any other case, a period equivalent to the aggregate of any periods of employment which—
 - (i) have been spent in any employment described in paragraph 2 of this schedule; and
 - (ii) have become reckonable under a superannuation scheme as described in paragraph 3 of this schedule; and either
 - (c) where he is or was entitled to an annual sum under the retirement regulations, the period by which his reckonable service was increased under regulation 5 of those regulations or the period during which contributions are deemed to have been paid under regulation 8(2)(b) of those regulations, as the case may be; or
 - (d) where he is a person to whom Part V of the compensation regulations applies or has applied, the period of service which was credited to him under regulation 16(2) of those regulations, or which would have been credited to him had he been a person to whom regulation 17 or 18 of those regulations applied.
2. The employments to which paragraph 1(b)(i) of this schedule relates are—
 - (i) employment under an employing authority, or an authority which was, or was deemed to be, an employing authority for the purposes of the National Health Service (Superannuation) Regulations 1961(a) as amended (b) or the previous regulations;
 - (ii) employment in which the person was subject to any regulations or scheme made under articles 9, 12 or 14 of the Superannuation (Northern Ireland) Order 1972(c) or section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald) or a corresponding provision in any Act repealed by the said Order or Act;

(a) S.I. 1961/1441 (1961 II, p. 2824).
(c) S.I. 1972/1073 (N.I. 10)

(b) S.I. 1975/1292 (1975 II, p. 4362).

- (iii) employment in the civil service of the State;
- (iv) employment under a scheduled body within the meaning of the Local Government Superannuation (Scotland) Regulations 1974(a) as amended (b) or the Local Government Superannuation Regulations 1974(c) or a local authority or a local Act authority within the meaning of section 34(1) of the Local Government Superannuation (Scotland) Act 1937(d) or section 40(1) of the Local Government Superannuation Act 1937(e); and
- (v) employment by a county or district nursing association during any period when a local health authority had arrangements with, or paid contributions to, that association under Part III of the National Health Service (Scotland) Act 1947 or Part III of the National Health Service Act 1946(f) or section 10 of the Health Services and Public Health Act 1968(g).

3. For the purposes of paragraph 1(b)(ii) of this schedule a period of employment shall be deemed to have become reckonable under a superannuation scheme if—

- (a) during such period the person was subject to a superannuation scheme in respect of which the contributions authorised or required to be paid by the employer were duly paid; or
- (b) such period was taken into account in calculating a sum in the nature of a transfer value paid to that scheme under the Regulations or any corresponding provision in force in England and Wales, Northern Ireland or the Isle of Man or under rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948(h);

Provided that—

- (i) so much of any period referred to in sub-paragraph (b) as consisted of non-contributing service shall be reckonable under this paragraph at half its actual length, and
- (ii) so much of any such period as consisted of part-time service shall be reckonable under this paragraph as though it were whole-time service for a proportionately reduced period.

4. For the purposes of regulation 4(1)(a)(ii) of these regulations, there may be added to the service described in paragraph 1 of this schedule any period of previous service which would have been reckonable under regulation 24 of the 1961 regulations or the corresponding provisions of any previous regulations (which provide for the reckoning of qualifying service in certain cases) or any corresponding provision in force in England and Wales, Northern Ireland or the Isle of Man.

5. For the purposes of paragraph 3(a) of this schedule no account shall be taken of any period of employment preceding a break of 12 months or more during which the person was not in employment described in paragraph 2 hereof.

(a) S.I. 1974/812 (1974 II, p. 3093).

(c) S.I. 1974/520 (1974 I, p. 1986).

(e) 1937 c. 68.

(g) 1968 c. 46.

(b) S.I. 1975/638 (1975 I, p. 2284).

(d) 1937 c. 69.

(f) 1946 c. 81.

(h) 1948 c. 33.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations supersede the Pensions Increase (Approved Schemes) (National Health Service) (Scotland) Regulations 1972. They provide for payments to certain persons who retire from employment in the National Health Service in Scotland having elected to secure their superannuation benefits through schemes which operate by way of insurance policies to produce lump sums or annuities, or both, upon retirement, have retired from, or attained age 70 whilst in, 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 relevant schemes are the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers, the arrangements which apply or applied to a regulation 72(1) optant, and any other scheme approved for this purpose by the Minister for the Civil Service.

The conditions of entitlement combine, with necessary modification, those for a health service pension and those for increases under the Pensions (Increase) Act 1971. The principal conditions are that the person—

- (i) completed the necessary qualifying service in health service or local government employment or certain types of related employment or the civil service;
- (ii) would have been entitled to receive payment of a pension had he been subject to the health service scheme; and
- (iii) has attained the age of 55 years, or is incapacitated, or is a woman who has a dependant.

The payments are based on a notional pension and, where appropriate, a notional lump sum (defined in Regulation 5) corresponding broadly to the pension and any deferred lump sum the person would have received if he had been in the health service scheme and entitled to reckon under that scheme certain service during which he was within the Federated Superannuation System for Universities, the Federated Superannuation Scheme for Nurses and Hospital Officers, the arrangements which apply or applied to a Regulation 72(1) optant, or any other approved scheme.

These Regulations make provisions whereby—

- (1) payments due to persons who have retired under the National Health Service Reorganisation (Retirement of Senior Officers) (Scotland) Regulations 1974 (which provide for early retirement on enhanced pension terms) or compensation under the National Health Service (Compensation) (Scotland) Regulations 1974 or earlier compensation provisions (which provide compensation for loss of employment or loss or diminution of emoluments) will be increased to take account of the extra service credited under the early retirement or compensation provisions (Paragraph 1 of the Schedule); provision is made for that extra service to be disregarded so as to avoid duplicate payments where that extra service is taken into account in the calculation of other benefits that attract increases under the Act of 1971 (Regulation 5);
- (2) the Regulations are extended to persons (referred to as Regulation 72(1) optants) who elected to secure their superannuation benefits by continuing to maintain their existing privately arranged insurance policies and

to whom the Secretary of State was obligated under Regulation 42(3)(m) of the National Health Service (Scotland) (Superannuation) Regulations 1950 to make payments as a contribution to the maintenance of those policies.

In accordance with the power conferred by Section 13(5) of the Pensions (Increase) Act 1971, the Regulations provide for the changes in Paragraph (1) to take effect as from 1st December 1974 and those in Paragraph (2) to take effect as from 1st March 1975 (Regulation 6).

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