

1989 No. 1749 (S.131)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (Superannuation)
(Scotland) Amendment (No.2) Regulations 1989**

Made - - - - - *19th September 1989*

Laid before Parliament *9th October 1989*

Coming into force *30th October 1989*

The Secretary of State, in exercise of the powers conferred on him by sections 10 and 12 of the Superannuation Act 1972(a) and of all other powers enabling him in that behalf, after consulting with such representatives of persons likely to be affected by these Regulations as appear to him to be appropriate in accordance with section 10(4) of that Act, and with the consent of the Treasury(b), hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service (Superannuation) (Scotland) Amendment (No. 2) Regulations 1989.

(2) These Regulations shall come into force on 30th October 1989 and shall have effect as from 6th April 1988.

Interpretation

2. In these Regulations “the principal Regulations” means the National Health Service (Superannuation) (Scotland) Regulations 1980(c).

Interpretation of the principal Regulations

3. In regulation 2 of the principal Regulations (interpretation), after sub-paragraph (7), there shall be inserted—

“(8) In these Regulations, any reference to a husband, a married male officer, widow or widow’s pension (except references in regulations 11, 15(3A), proviso (v) to 16(3), 22 and 47) shall apply as if it included a reference to a wife, a married female officer, widower or widower’s pension respectively.”.

Definitions

4. In regulation 3 of the principal Regulations—

(a) after the definition of “appointed day” there shall be inserted the following definition:—

(a) 1972 c.11; section 10(1)(a) was amended by Part II of Schedule 7 to the National Health Service (Scotland) Act 1972 (c.58).

(b) The function was transferred to the Treasury by S.I. 1981/1670.

(c) S.I. 1980/1177, as amended by S.I. 1981/1680, 1983/272, 1988/1956 and 1989/807.

- “appropriate personal pension scheme” means a personal pension scheme for which there is in force a certificate issued in accordance with section 2 of the Social Security Act 1986(a);
- (b) after the definition of “death gratuity” there shall be inserted the following definition:-
 ““earnings factor” has the meaning assigned to it in section 13 of the Social Security Act 1975(b)”;
- (c) in the definition of “officer” for the words “has the meaning assigned to it by regulation 4(1)” there shall be substituted the words “means an officer in the employment of an employing authority to whom regulation 4(1) applies but excluding any person who, in consequence of an election under regulation 4A, is not an officer to whom these Regulations apply”;
- (d) after the definition of “participating employment” there shall be inserted the following definition:-
 ““pay period” means the period set out in the officer’s contract of employment in respect of which each payment of salary or wages is made or, in relation to a practitioner, the quarter in which payments are made by an employing authority;”;
- (e) after the definition of “pensionable age” there shall be inserted the following definition:-
 ““personal pension scheme” has the same meaning as in section 84(1) of the Social Security Act 1986;”;
- (f) after the definition of “retiring allowance” there shall be inserted the following definition:-
 ““self-employed pension arrangement” means a personal pension scheme within the meaning of Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(c) which is approved by the Inland Revenue under that Chapter; but which is neither a personal pension scheme within the meaning of the Social Security Act 1986 nor a contract or a scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;”;
- (g) in the definition of “service” for the words “18 years” there shall be substituted the words “16 years” and at the end of sub-paragraph (c) there shall be inserted the word “or” and at the end of that sub-paragraph there shall be inserted-
 “(d) any period of employment subject to an election made under regulation 4A;”.

Application

5. In regulation 4 of the principal Regulations-
- (a) in paragraph (1), after the word “regulations” (where first occurring) there shall be inserted the words “4A, 4B”;
- (b) in paragraph (1), for the words “18 years”, there shall be substituted the words “16 years”;
- (c) in paragraph (1)(a) the words “whose duties are wholly or mainly administrative, professional or clerical” shall be deleted;
- (d) sub-paragraphs (b), (c) and (d) of paragraph (1) shall cease to have effect;
- (e) after proviso (iv) to paragraph (1) the following further proviso shall be inserted:-
 “(v) for the purposes of sub-paragraph (f) of this paragraph a person whose hours of employment are less than one half of the hours which would constitute whole-time employment in his case shall nonetheless be treated as satisfying the requirement if his hours of employment under sub-paragraph (e) (not being employment subject to an election under regulation 4A) when added to his hours of employment under sub-paragraph (f) would not be less than the period of hours required under that paragraph;” and

(a) 1986 c.50.

(b) 1975 c.14; section 13 was amended by the Social Security Pensions Act 1975 (c.60), Schedule 4, Part I, paragraph 38, the Social Security (Miscellaneous Provisions) Act 1977 (c.5), section 2, the Social Security Act 1979 (c.18), Schedule 3, paragraph 5, S.I. 1982/1790, the Social Security Act 1980 (c.30), section 5, the Social Security (No. 2) Act 1980 (c.39), Schedule, the Social Security Act 1985 (c.53), Schedule 5, paragraph 6, and the Social Security Act 1986 (c.50), Schedule 8, paragraph 2 and Schedule 11.

(c) 1988 c.1.

- (f) at the end of paragraph (1) the words "and the term "officer" shall be construed accordingly" shall be deleted.

Voluntary Membership

6. After regulation 4 there shall be inserted the following regulations:-

"Voluntary membership

4A.—(1) Any person who upon entering the employment of an employing authority would become an officer by virtue of regulation 4(1), and any officer may, at any time, subject to paragraph (3) below, by giving written notice to the Secretary of State, elect that the Regulations should not apply to him or should cease to apply to him.

(2) An election under paragraph (1) made within the first pay period of entering employment shall have effect from the first day of employment and an election made at any time thereafter shall have effect from the first day of the pay period following that in which it is made.

(3) An officer, other than a practitioner or part-time medical officer or dental officer, who makes an election under this regulation shall do so in respect of all concurrent employments held by him unless in exercising an election in relation to one or more of said concurrent employments the remaining employment meets the requirements of Schedule 6.

(4) An election made under this regulation will apply to any subsequent employment with the same employing authority irrespective of the length of break in service unless and until a further election is made under regulation 4B below.

(5) An officer who makes an election under paragraph (1) above shall, in respect of the employment or employments to which it relates, be treated as having ceased to be an officer to whom these Regulations apply from the date on which the election takes effect.

Resumption of membership

4B.—(1) Subject to paragraphs (2) and (3) of this regulation, any person who has made an election under regulation 4A(1) and who, but for that election, would be an officer to whom these Regulations apply, may at any time, by giving written notice to the Secretary of State, elect that these Regulations shall apply to him.

(2) Subject to paragraph (3) below an election made under this regulation shall have effect from the first day of the pay period following that in which the election is made.

(3) An election under this regulation shall not be accepted by the Secretary of State-

(a) if it is made by a person who is absent from duty without leave, is absent on account of sickness or is absent without remuneration or with reduced remuneration; or

(b) where, having made an election under regulation 4A(1), the person has become entitled to receive payment of benefits under regulation 10

and in any case to which sub-paragraph (b) applies any subsequent employment shall be deemed to be subject to an irrevocable election under regulation 4A."

Officer's pension and retiring allowance

7. In regulation 10 of the principal Regulations-

(a) in paragraph (1)(a)(i), (iv) and (vi), for the words "5 years", there shall be substituted the words "2 years";

(b) in paragraph 1(a)(iv) after the words "regulation 39(5)(b)" there shall be inserted the words "or (d)";

(c) paragraph (1)(a)(v) shall cease to have effect;

(d) in paragraph (2)(c) after the word "employment" there shall be inserted the words "or, in the case of a person who would be an officer but for an election under regulation 4A, is permanently incapable by reason of physical or mental infirmity of discharging efficiently the duties of his employment";

(e) in paragraph (6)(b) for the words "5 years", there shall be substituted the words "2 years".

Rates of pension and retiring allowance

8. In regulation 11 of the principal Regulations—

- (a) in proviso (a)(iii) to paragraph (3), for the words “regulation 20”, there shall be substituted the words “regulation 20(3)”;
- (b) in paragraph (3), after proviso (b), there shall be added the following proviso:—
 - “(c) where an officer is a female who has made an election under regulation 20(2) in respect of service before 6th April 1988 for which, or for any part of which, a widower’s pension may become payable, the amount of the retiring allowance shall be a sum equal to the aggregate of the following amounts, namely, the annual amount of pension as calculated under this regulation or regulation 70 as the case may be in respect of service or any part of service before 25th March 1972 and twice the annual amount of pension in respect of service or part service from 25th March 1972 to 5th April 1988 inclusive (other than service in respect of which payment under regulation 29(1) has been completed or deemed to have been completed) and three times the annual amount of pension for any service before 6th April 1988 for which there is no liability for a widower’s pension and for all service from 6th April 1988.”.

Death gratuity

9. In regulation 15 of the principal Regulations—

- (a) at the end of paragraph (1), there shall be added the following proviso:—

“Provided that in the event of an officer dying and leaving 2 or more widows, they shall each be entitled to an equal share of the death gratuity payable in accordance with this regulation.”;
- (b) in paragraph (2), for the words “proviso (a)”, there shall be substituted the words “proviso (a) or (c)”;
- (c) in paragraph (3), after the words “these regulations” there shall be inserted the words “or where a nomination has been made under regulation 20(3) but excluding any service subject to paragraph 3A below”;
- (d) after paragraph (3)(b) there shall be inserted the following paragraph:—

“(3A) Except in any case to which any proviso to regulation 16(1) applies and subject to the provisions of regulation 29(4), where a widower’s pension is payable by virtue of an election under regulation 20(2) irrespective of any subsequent election under regulation 20(3)—

 - (a) the amount of the death gratuity specified in paragraph (2)(a) of this regulation shall, in respect of service covered by an election under regulation 20(2), be reduced by an amount equal to twice the annual amount of pension which would have been payable to the officer in respect of her contributing service or any part of her contributing service before 25th March 1972 and an amount equal to the amount of the pension which would be payable to the officer in respect of her contributing service, or any part of her contributing service, between 25th March 1972 and 5th April 1988 had she become entitled to a pension under these Regulations on the day of her death (any reduction under regulation 56 being disregarded);
 - (b) the amount of the death gratuity specified in paragraph (2)(c) of this regulation (except sub-paragraph (iii)(b) thereof) shall be reduced by an amount equal to twice the annual amount of the person’s pension in respect of her contributing service before 25th March 1972 and an amount equal to the annual amount of the person’s pension in respect of her contributing service between 25th March 1972 and 5th April 1988 (any reduction under regulation 56 being disregarded).”;
- (e) paragraph 15(4) shall cease to have effect.

Widow’s pension

10. In regulation 16 of the principal Regulations—

- (a) in paragraph (1), after the word “widow”, in both places where it occurs, there shall be inserted the words “or widows” and after the words “an annual widow’s pension”

- there shall be inserted the words "to be shared in accordance with the provisions of regulation 18A";
- (b) in paragraph (1)(b), for the words "5 years", there shall be substituted the words "2 years";
 - (c) in proviso (i) to paragraph (1), after the words "ceased to be an officer", there shall be inserted the words "and she was not married to her husband at any time between 25th March 1972 and the date he ceased to be an officer";
 - (d) in paragraph (3)(a), for the words "5 years", there shall be substituted the words "2 years";
 - (e) in proviso (v) to paragraph (3), for the words from "the amount" to "6th April 1978", there shall be substituted "notwithstanding regulation 30, the amount of a widow's pension in respect of her husband's contributing service on or after 6th April 1978, or the amount of a widower's pension in respect of his wife's contributing service on or after 6th April 1988 including any additional service purchased under regulation 20(2), shall not be less than the following amounts,";
 - (f) after proviso (vi) to paragraph (3) there shall be inserted the words—
 "Proviso (v) shall not apply where the widow was her husband's wife at some time while he was employed in contributing service on or after 25th March 1972 and before the date he ceased to be an officer.";
 - (g) in paragraph (6) for the words "A widow's pension" there shall be substituted the words "Subject to paragraph (6A), a widow's pension";
 - (h) after paragraph (6) there shall be inserted the following sub-paragraph:—
 "(6A) In the event of the remarriage of a widow on or after 6th April 1988 or in respect of any period subsequent to that date during which she and a man to whom she is not married are living together as man and wife the Secretary of State may continue or restore a pension, payment of which was suspended by virtue of the provisions of paragraph (6)(a) or (b) above, if he is satisfied that she would otherwise suffer severe financial hardship, and if he does so he may take account of any deficiency payment already made under paragraph (7) of this regulation.";
 - (i) after paragraph (8) there shall be inserted the following paragraph:—
 "(9) Where there is more than one widow they shall be entitled to an equal share of any benefits payable under these Regulations; and where the death of one or more widows occur, the survivor shall be entitled in full to any benefits awarded by these Regulations or, in the case of survivors, they shall be entitled to an equal share."

Pensions of limited duration for widows and dependent children

11. In regulation 18 of the principal Regulations—

- (a) in paragraph (1), for the words "5 years", there shall be substituted the words "2 years";
- (b) in paragraph (2), after the words "to his widow", there shall be inserted the words "or widows to be shared in accordance with the provisions of regulation 18A".

Sharing of pensions between widows

12. After regulation 18 of the principal Regulations there shall be added the following regulation:—

"Sharing of pensions between widows

18A. Where an officer dies leaving more than one widow, they shall each be entitled to an equal share of the pensions payable under regulations 16 or 18 as the case may be; and where the death of one or more widows occurs, the survivor shall be entitled in full to the said pensions or, in the case of survivors, they shall be entitled to an equal share."

Widower's pension

13. For regulation 20 of the principal Regulations there shall be substituted the following regulation:—

“Widower’s pension

20.—(1) The widower of any married female officer shall be entitled to benefits under these Regulations in respect of any service after 6th April 1988 on the same terms and conditions as the widow of a married male officer.

- (2)(a) A female officer who is in service on 6th April 1988 or who again becomes an officer on or before 30th June 1989, unless she is a person in respect of whom a pension has already become payable, may elect, on giving written notice to the Secretary of State at any time on or before 30th June 1989, to purchase widower’s pension cover for service prior to 6th April 1988 and her retiring allowance or any payment under regulation 15 shall be calculated in accordance with the provisions of proviso (c) to paragraph (3) of regulation 11 or paragraph (3A) of regulation 15, as the case may be; and
- (b) unless an election under paragraph (2)(a) of this regulation relates to all of an officer’s service prior to 6th April 1988 or all service from 25th March 1972 to 5th April 1988 purchase must be in multiples of complete years; and
- (c) an election under paragraph (2)(a) of this regulation must be accompanied by a declaration in writing signed by the officer that she is of sound health for her age; and
- (d) an election made under paragraph (2)(a) of this regulation shall not be revokable.

(3) In respect of contributing service prior to 6th April 1988 a female officer whose husband is permanently incapable by reason of physical or mental infirmity of earning his own living may, by a notice in writing submitted to the Secretary of State after 11th September 1975, nominate her husband to receive benefits under this regulation on the grounds that he is wholly or mainly dependent on her and if the Secretary of State is satisfied that the officer’s husband is so dependent on her he shall accept the nomination so that on the death of the officer the nominee shall be entitled to receive from the Secretary of State an annual widower’s pension in accordance with the provisions of regulation 16 or a limited pension in accordance with the provisions of regulation 18.”.

Guaranteed minimum pension under the Pensions Act

14. For regulation 22 of the principal Regulations there shall be substituted the following regulation:—

“Guaranteed minimum pension under the Pensions Act

22.—(1) Subject to regulation 22A and to paragraph (6) below, this regulation shall apply to officers in contracted-out employment by reference to these Regulations and it shall then override any other provisions of these Regulations which are inconsistent with it.

(2) The words and expressions used in this regulation shall have the same meaning as in the Pensions Act.

(3) If an officer has a guaranteed minimum in relation to the pension provided for him under these Regulations in accordance with section 35 of the Pensions Act(a):—

- (a) the weekly rate of the pension from age 65 for a man and 60 for a woman shall not be less than the guaranteed minimum from pensionable age, but where employment as an officer continues after attaining that age the entitlement to receive payment of such pension shall be postponed until such employment ceases, except that the officer shall be entitled to receive payment of the guaranteed minimum pension rate 5 years after pensionable age where the officer has continued until then in such employment without having become entitled to receive payment of any benefit under these Regulations;
- (b) if the officer is a man and dies at any time leaving a widow, the weekly rate of the pension provided for her under these Regulations shall not be less than half that officer’s guaranteed minimum pension for any period such as is mentioned in section 36(6) of the Pensions Act;

(a) 1975 c.60; section 35 was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c.5), sections 3 and 22, by the Social Security Act 1979 (c.18), Schedule 3, paragraph 18 and by the Social Security Act 1986 (c.50), section 9 and Schedule 8, paragraph 8.

(c) if the officer is a woman and dies on or after 6th April 1989 leaving a widower, he shall be entitled to receive payment of a widower's pension payable in the circumstances prescribed and for the period prescribed under section 36(7A) of the Pensions Act(a) and the weekly rate of the pension provided for him under this scheme shall be not less than half of that part of the officer's guaranteed minimum which is attributable to earnings factors for the tax year 1988/89 and subsequent tax years.

(4) The guaranteed minimum pensions referred to in paragraph (3) shall, insofar as they are attributable to earnings factors in the tax years from (and including) 1988/89, be increased in accordance with the requirements of section 37A of the Pensions Act(b) and to the extent of any orders made thereunder.

(5) If the commencement of any officer's guaranteed minimum pension is postponed for any period, the guaranteed minimum shall be increased to the extent, if any, specified in section 35(6), (6A) and (6B) of the Pensions Act(c), as amended from time to time.

(6) In the following circumstances a pension provided by virtue of these Regulations may be less than the guaranteed minimum pension—

- (a) where regulation 42 operates to reduce a pension;
- (b) where the Secretary of State has made a direction under regulation 62 in respect of an offence mentioned in paragraph (b) or (c) of that regulation;
- (c) where the Secretary of State has discharged his liability by the making of a payment under—
 - (i) regulation 21; or
 - (ii) regulation 80 except that, notwithstanding the transfer payment, a guaranteed minimum pension may become payable following a transfer to a superannuation scheme established for the staff of a Community Institution and approved by the Occupational Pensions Board established by section 66 of the Social Security Act 1973 and the Board of Inland Revenue for the purposes of this regulation.”.

Reckoning as service of previous periods of employment

15. In regulation 23 of the principal Regulations—

(a) after paragraph (1) there shall be inserted the following paragraph:—

“(1A) Subject to paragraph (6) of this regulation, where a person becomes an officer in consequence of an election under regulation 4B after previously ceasing to be an officer in consequence of an election under regulation 4A, the service which was reckonable when he made the election under regulation 4A shall be reckonable if—

- (a) he made the election under regulation 4B within 12 months of making the election under regulation 4A; and
- (b) within 6 months of making the election under regulation 4B he repays to his employing authority an amount equal to any sum paid to him by way of return of contributions on or after his making the election under regulation 4A, together with an amount equal to any income tax which was deducted from his contributions in respect of such payment (not being a reduction under regulation 39(3)), except that, notwithstanding this paragraph, service which on making the election under regulation 4A was reckonable under regulation 39(5)(a) or (b), together with any associated service to which regulation 36(1)(a) applies, will remain reckonable.”;

(b) for paragraph (3) there shall be substituted the following paragraph:—

“(3) Subject to paragraphs (4), (4B), (4C) and (6) of this regulation, where a person enters employment as an officer or makes an election under regulation 4B and paragraph (1) or (1A) does not apply to him, and in consequence of his service in previous employment he has accrued rights to benefits under a superannuation scheme or personal pension scheme (whether or not his rights are preserved in that

(a) Section 36(7A) was inserted by the Social Security Act 1986, section 9.

(b) Section 37A was inserted by the Social Security Act 1986, section 9.

(c) Section 35(6A) and (6B) were inserted by the Social Security Act 1986, section 9.

scheme or have been transferred to and are held under one or more such schemes or are appropriately secured for the purposes of section 52C of the Pensions Act(a) by one or more appropriate policies but excluding any benefits arising as a result of payment of additional voluntary contributions in accordance with section 591(2)(h) of the Income and Corporation Taxes Act 1988) that service shall be reckonable at its full length for the purpose of determining whether any benefit is payable to or in respect of him under these regulations if—

- (a) within 12 months after entering employment as an officer, or making an election under regulation 4B, he gives written notice to the Secretary of State that he wishes the Secretary of State to accept a transfer payment in relation to some or all of his accrued rights from—
 - (i) the trustees or managers of the superannuation scheme or personal pension scheme under which some or all of those rights are held, or
 - (ii) the insurance company with whom an appropriate policy securing some or all of those rights is held; and
- (b) those trustees or managers or that insurance company make a transfer payment in respect of some or all of those rights to the Secretary of State and, when the Secretary of State so requests, indicate the period of service in respect of which it is made.”;
- (c) after paragraph (4) there shall be inserted the following paragraphs:—
 - “(4A) Subject to paragraphs (4B), (4C) and (6), where a person who has accrued rights to benefits under a self-employed pension arrangement enters employment as an officer or makes an election under regulation 4B and paragraph (1) or (1A) does not apply, then, if within 12 months after entering such employment or making such an election he gives written notice to the Secretary of State that he wishes the Secretary of State to accept a transfer payment in relation to some or all of his accrued rights and such payment is made to the Secretary of State, there shall be added to his service under these Regulations a period of contributing service calculated in accordance with Part II of Schedule 2.
 - (4B) Where in relation to any accrued rights a person could have given written notice within 12 months after entering employment or making an election under regulation 4B, in accordance with paragraph (3) or (4A) of this regulation, but did not do so, those rights may not subsequently be included in a notice in accordance with either of those paragraphs if that subsequent notice is given in consequence of making an election under regulation 4B.
 - (4C) The Secretary of State shall not accept a transfer payment from a personal pension scheme or a self-employed pension arrangement prior to 6th April 1990.”;
- (d) in paragraph (6), in sub-paragraph (a), for the words “paragraph (1) or paragraph (3)” there shall be substituted the words “paragraph (1), (1A), (3) or (4A)”.

Reckoning of previous employment as qualifying service in certain cases

16. In regulation 26(5)(a) of the principal Regulations, for the words “18 years”, there shall be substituted the words “16 years”.

Purchase of unreduced retiring allowance

17. In regulation 29 of the principal Regulations—
- (a) in paragraph (1), for the words “where either proviso (a) or proviso (b) to regulation 11(3) applies”, there shall be substituted the words “where proviso (a), (b) or (c) to regulation 11(3) applies”;
 - (b) in paragraph (1)(a)(i), for the words “regulation 20”, there shall be substituted the words “regulation 20(3)”;
 - (c) in paragraph (1)(a)(ii), after the word “marrying, ”, there shall be added the word “or”;
 - (d) after paragraph (1)(a)(ii) there shall be inserted—

(a) Section 52C was inserted by the Social Security Act 1985 (c.53), Schedule 1, paragraph 2 and was amended by the Social Security Act 1986, Schedule 10, paragraph 26.

- “(iii) in the case of a female officer who has made an election under regulation 20(2) and elects under this regulation on or before 30th June 1989,”;
- (e) for paragraph (1)(b) there shall be substituted the following sub-paragraph:-
- “(b) (i) where at least two years will elapse between the date of his next birthday following the material date and his date of intended retirement, to make payments in accordance with the provisions of paragraph 2 of Schedule 8, or
- (ii) in the case of a female officer who has made an election under regulation 20(2), where at least two years will elapse between the date of her next birthday following the date of election under this regulation (provided that such election is made on or before 30th June 1989) and her date of intended retirement, to make payments in accordance with the provisions of paragraph 2 of Schedule 8,”;
- (f) in paragraph (1) after the words “service before 25th March 1972” there shall be inserted the words “and, in the case of a female officer who has made an election under regulation 20(2), the whole or any part of her contributing service from 25th March 1972 to 5th April 1988”;
- (g) in paragraph (8), after the words “25th March 1972”, there shall be inserted the words “and, in the case of a female practitioner who has made an election under regulation 20(2), in respect of the whole or any part of her contributing service as a practitioner from 25th March 1972 to 5th April 1988”.

Method of calculating service, contributing service and non-contributing service

18. In regulation 36 of the principal Regulations-

- (a) in paragraph (1)(a)(ii), at the beginning, there shall be inserted the words “subject to sub-paragraph (aa) below”;
- (b) after paragraph (1)(a) there shall be inserted the following:-
- “(aa) paragraph (1)(a)(ii) of this regulation shall not apply to an officer who immediately prior to 6th April 1988 was in non-contributing service and who has made an election under regulation 4A that these regulations shall not apply to him from that date;”;
- (c) in paragraph (3), after the words “regulation 10(1)(a)(i)”, there shall be inserted the words “and the officer has completed not less than 5 years’ service”.

Return of contributions

19. In regulation 39 of the principal Regulations-

- (a) in paragraph (5)(a) the words “attained the age of 26 years and” shall be deleted and for the words “5 years” there shall be substituted the words “2 years”;
- (b) paragraph 5(c) shall cease to have effect;
- (c) after paragraph (5)(c) there shall be inserted the following sub-paragraph:-
- “(d) where a transfer payment has been made to the Secretary of State by the trustees or managers of a personal pension scheme notwithstanding that the person has not completed 2 years’ service.”.

Separate benefits in the case of certain re-employed pensioners

20. In regulation 44(3) of the principal Regulations after the word “disregarded” there shall be inserted the words “so that, however, nothing in this paragraph shall be taken to restrict the operation of regulation 36(3)”.

Qualifying period in the case of optants

21. In regulations 46(6)(e), 47(1)(b) and (c), 48(5)(b) and 50(9)(c)(ii) of the principal Regulations, for the words “5 years” wherever they occur, there shall be substituted the words “2 years”.

Minimum benefits for certain optants

22. In regulation 48(3) of the principal Regulations after the words “6th April 1978” there shall be inserted the words “or in the case of a female officer from 6th April 1988”.

Accounts and actuarial investigations

23. In regulation 65 of the principal Regulations, for paragraph (1), there shall be substituted the following paragraph:-

“(1) The Secretary of State shall keep an account in such form and prepared in such manner as the Treasury may approve of all receipts and payments under these Regulations.”.

Application of regulations with modifications

24. For regulation 66 of the principal Regulations there shall be substituted the following:-

“66.—(1) Subject to paragraph (2), these Regulations shall apply to every practitioner as if he were an officer in the employment of a Health Board.

(2) In the case of a practitioner who is on the list of more than one Health Board an election under regulation 4A in respect of any one of these Health Boards, or the revocation of such an election, shall also be deemed to apply in respect of any such other Health Board.

(3) Notwithstanding paragraph (2), a practitioner who makes an election under regulation 4A in respect of his practitioner service may nonetheless be an officer for the purposes of these Regulations in respect of any service otherwise than as a practitioner.

Amendment of certain references to age

25. In regulation 67(1) of the principal Regulations, after the words “particular case allow”, there shall be inserted the words “and who has not ceased to be an officer by reason of an election under regulation 4A”.

Meaning of “remuneration”

26. In regulation 68 of the principal Regulations-

- (a) in paragraph (2), at the end of proviso (a) and of sub-paragraphs (i), (ii) and (iv) of proviso (b) there shall be inserted the words “except that where a practitioner has made an election under regulation 4A the remuneration so calculated shall not be treated as superannuable remuneration for the purposes of these Regulations”;
- (b) in paragraph (3)(a), after the words “partnership to which it relates”, there shall be inserted the words “whether or not one or more members of the partnership have elected that Part III of these Regulations shall not apply to them.”;
- (c) in paragraph (8), after the words “In this regulation”, there shall be inserted the words “notwithstanding that one or more members of the partnership may have made an election under regulation 4A”.

Prior service to be treated as practitioner service

27. In regulation 71(1), at the end of that paragraph, there shall be inserted the following proviso-

“Provided that the amount of any benefits payable under these Regulations shall be calculated as if this paragraph did not apply where-

- (a) the value of the practitioner service is less than the value of the service otherwise than as a practitioner (excluding in either case any added years or any period added under regulations 36 and 74) and
- (b) treatment of the prior service as practitioner service would operate so as to reduce the amount of benefit payable.”.

Reckoning of practitioner service and remuneration

28. In regulation 74 of the principal Regulations, after the words “under regulation 10(1)(a)(i) to a practitioner” in paragraphs (2) and (3), there shall be inserted the words “who has completed not less than 5 years’ reckonable service and”.

Further employment not to be taken into account for reduction of pension in certain cases

29. In regulation 75 of the principal Regulations, after the words "65 years", there shall be inserted the words "and who has not made an election in respect of his practitioner service under regulation 4A".

Right to a transfer payment

30. In regulation 80 of the principal Regulations—

- (a) in paragraph (1), for the words "(hereafter referred to as his "old employment")", there shall be substituted the words "or is a person who has ceased to be an officer by virtue of an election under regulation 4A and as a result is no longer an officer in relation to any employment,";
- (b) in paragraph (1)(a), for the words "his old employment terminated", there shall be substituted the words "he ceased to be employed as an officer or ceased to be an officer by virtue of an election under regulation 4A";
- (c) in paragraph (1)(b)(ii), for the words "leaving his old employment", there shall be substituted the words "ceasing to be employed as an officer";
- (d) at the end of paragraph (1)(b)(ii), for the semi-colon, there shall be substituted the word ", or" and the following sub-paragraph shall be added:—
 - (iii) who within 12 months, or within such longer period as the Secretary of State may in any particular case allow, of ceasing to be employed as an officer or ceasing to be an officer by virtue of an election under regulation 4A, participates in a personal pension scheme or a self-employed pension arrangement and has within 12 months of beginning to so participate made an application such as is mentioned in sub-paragraph (d) for payment of a transfer value;"
- (e) in paragraph (1)(c), for the words "old employment" wherever they appear, there shall be substituted the words "employment as an officer";
- (f) in paragraph (1)(d)(ii), for the words "his old employment terminated", there shall be substituted the words "he ceased to be employed as an officer or ceased to be an officer";
- (g) after paragraph (1) there shall be inserted the following paragraph:—

"(1A) Notwithstanding the provisions of paragraph (1) above a transfer payment arising out of the termination of an officer's employment may only be made to a personal pension scheme or self-employed pension arrangement if the employment was terminated on or after 1st January 1986.";
- (h) in paragraph (3) for the words "leaving old employment" there shall be substituted the words "ceasing to be employed as officers".

Schedule 2

31. In Schedule 2 to the principal Regulations—

- (a) for paragraph 3 there shall be substituted the following paragraphs:—
 - "3. Where a person requests that a transfer payment be made to—
 - (a) (i) a superannuation scheme which is not contracted-out within the meaning of section 32 of the Pensions Act(a); or
 - (ii) a personal pension scheme which is not an appropriate personal pension scheme; or
 - (iii) a self-employed pension arrangement; and
 - (b) the trustees or managers of the superannuation scheme, personal pension scheme or self-employed pension arrangement are able or willing to have transferred to it only the liabilities for a person's accrued rights other than his or her and his or her spouse's rights to guaranteed minimum pensions; and

(a) Section 32 was amended by the Social Security and Housing Benefits Act 1982 (c.24), Schedule 4, paragraph 20 and by the Social Security Act 1986 (c.50), section 9, Schedule 2, paragraph 5, Schedule 10, paragraph 16 and Schedule 11.

- (c) the person does not require the Secretary of State to use that portion of the transfer payment that represents guaranteed minimum pensions in one of the ways specified in regulation 80(1),

the person's transfer payment shall be reduced by the amount of a state scheme premium sufficient for the Secretary of State for Social Services to meet his liability in respect of the person's and his or her spouse's guaranteed minimum pensions.

3A.—(1) Subject to sub-paragraph (2) in respect of a person who ceased to be an officer by virtue of an election under regulation 4A, the transfer payment calculated in accordance with this Part shall be the aggregate of the following:—

- (a) in relation to the person's pension, that part of his accrued rights which bears the same proportion to his total accrued rights as his contributing service after 5th April 1988 bears to his total contributing service; and
(b) in relation to his spouse's pension, that part of his accrued rights referable to service after 5th April 1988.

(2) Sub-paragraph (1) shall not apply to a person where contributing service before 6th April 1988 amounts to less than 2 years.

(3) Where—

- (a) a transfer payment reduced in accordance with sub-paragraph (1) has been paid in respect of a person; and

(b) that person has subsequently ceased to be employed before attaining the age of 60 years, or, where regulation 80(6) applies, the age of 59 years; a right to a transfer payment in respect of any part of his accrued rights to which, but for the operation of sub-paragraph (1) of this paragraph, he would have been entitled on ceasing to be employed as an officer, shall accrue to the person on the date on which he ceased to be employed and shall be valued accordingly.

(4) In relation to any person to whom sub-paragraph (3) applies—

- (a) regulation 80(1)(d)(ii) shall have effect as if for the words "he ceased to be employed as an officer or ceased to be an officer" there were substituted the words "he ceased to be employed"; and

- (b) the definition of "material date" in paragraph 4 shall have effect as if for the words "the person left employment in which he was an officer or ceased to be an officer" there were substituted the words "he ceased to be employed".

(5) For the purposes of this paragraph, where a person ceases to be employed but that person enters again into employment to which these Regulations apply or makes an election under regulation 4B, then, if there is between those two employments—

- (a) an interval not exceeding one month; or

- (b) an interval of any length if the second of the employments results from the exercise of a right to return to work under section 45(1) of the Employment Protection (Consolidation) Act 1978(a) (right to return to work following pregnancy or confinement),

they shall be treated as a single employment.”;

- (b) in the definition of "material date" in paragraph 4(c), after the words "an officer", there shall be inserted the words "or ceased to be an officer by virtue of an election under regulation 4A”;

- (c) at the end of paragraph 9(1)(a) the word "and" shall be deleted and there shall be inserted the following sub-paragraph:—

“(aa) in the case of a transfer from a self-employed pension arrangement a period of service calculated in accordance with paragraph 8(b);”;

- (d) in paragraph 9(1)(b) after the words "superannuation scheme" there shall be inserted the words "or personal pension scheme”.

Schedule 5

32. In Schedule 5 to the principal Regulations, after the words "table hereunder" in paragraph 2, there shall be inserted the words "except that where there is no widow's pension

(a) 1978 c.44.

in payment, or payment of widow's pension has ceased other than by reason of regulation 16(6), the higher rate shall be paid".

Schedule 8

33. In Schedule 8 to the principal Regulations—

- (a) in paragraph 3(1), after the words "table 1", there shall be inserted the words "(for service prior to 25th March 1972) and table 2 (for service from 25th March 1972 to 5th April 1988)";
- (b) in paragraph 4(1), for the words "table 2", there shall be substituted the words "table 3 (for service prior to 25th March 1972) and table 4 (for service from 25th March 1972 to 5th April 1988)";
- (c) for tables 1 and 2 there shall be substituted tables 1, 2, 3 and 4 set out below:—

"Unreduced Retiring Allowance

Purchase by single payment

Amount appropriate in respect of each £100 of remuneration

Table 1

Service before 25.3.72

Age	Cost £	Age	Cost £	Age	Cost £	Age	Cost £	Age	Cost £
17-20	2.97	25	2.67	30	2.46	35-44	2.35	49	2.46
21	2.91	26	2.61	31	2.44	45	2.36	50-54	2.47
22	2.85	27	2.56	32	2.41	46	2.38	55	2.48
23	2.79	28	2.51	33	2.39	47	2.41	56-70	2.50
24	2.73	29	2.48	34	2.36	48	2.44	—	—

Table 2

Service from 25.3.72 to 5.4.88 (inclusive)

Age	Cost £	Age	Cost £	Age	Cost £	Age	Cost £	Age	Cost £
17-20	1.485	25	1.335	30	1.230	35-44	1.175	49	1.230
21	1.455	26	1.305	31	1.220	45	1.180	50-54	1.235
22	1.425	27	1.280	32	1.205	46	1.190	55	1.240
23	1.395	28	1.255	33	1.195	47	1.205	56-70	1.250
24	1.365	29	1.240	34	1.180	48	1.220	—	—

Purchase by periodical contributions

(Percentage of Remuneration)

Table 3

Service before 25.3.72

Age next birthday	Retirement Age			Age next birthday	Retirement Age			Age next birthday	Retirement Age		
	65	60	55		65	60	55		65	60	55
	%	%	%		%	%	%		%	%	%
17	0.04	0.06	0.07	33	0.07	0.09	0.13	49	0.15	0.24	0.47
18	0.04	0.06	0.07	34	0.08	0.10	0.14	50	0.16	0.27	0.56
19	0.04	0.06	0.07	35	0.08	0.10	0.14	51	0.17	0.30	0.71
20	0.04	0.06	0.07	36	0.08	0.11	0.15	52	0.19	0.34	0.95
21	0.04	0.06	0.07	37	0.08	0.11	0.16	53	0.20	0.38	1.43
22	0.05	0.06	0.08	38	0.09	0.12	0.17	54	0.22	0.45	
23	0.05	0.07	0.08	39	0.09	0.12	0.18	55	0.24	0.54	
24	0.05	0.07	0.09	40	0.09	0.13	0.19	56	0.27	0.68	
25	0.05	0.07	0.09	41	0.10	0.13	0.20	57	0.30	0.91	
26	0.06	0.07	0.10	42	0.10	0.14	0.22	58	0.34	1.42	
27	0.06	0.08	0.10	43	0.11	0.15	0.24	59	0.40		
28	0.06	0.08	0.11	44	0.11	0.16	0.26	60	0.48		
29	0.06	0.08	0.11	45	0.12	0.17	0.29	61	0.61		
30	0.07	0.08	0.12	46	0.12	0.19	0.32	62	0.82		
31	0.07	0.08	0.12	47	0.13	0.20	0.36	63	1.23		
32	0.07	0.09	0.13	48	0.14	0.22	0.41	—	—		

Table 4

Service from 25.3.72 to 5.4.88 (inclusive)

Age next birthday	Retirement Age			Age next birthday	Retirement Age			Age next birthday	Retirement Age		
	65	60	55		65	60	55		65	60	55
	%	%	%		%	%	%		%	%	%
17	0.02	0.03	0.04	33	0.04	0.05	0.07	49	0.08	0.12	0.24
18	0.02	0.03	0.04	34	0.04	0.05	0.07	50	0.08	0.14	0.28
19	0.02	0.03	0.04	35	0.04	0.05	0.07	51	0.09	0.15	0.36
20	0.02	0.03	0.04	36	0.04	0.06	0.08	52	0.10	0.17	0.48
21	0.02	0.03	0.04	37	0.04	0.06	0.08	53	0.10	0.19	0.72
22	0.03	0.03	0.04	38	0.05	0.06	0.09	54	0.11	0.23	
23	0.03	0.04	0.04	39	0.05	0.06	0.09	55	0.12	0.27	
24	0.03	0.04	0.05	40	0.05	0.07	0.10	56	0.14	0.34	
25	0.03	0.04	0.05	41	0.05	0.07	0.10	57	0.15	0.46	
26	0.03	0.04	0.05	42	0.05	0.07	0.11	58	0.17	0.71	
27	0.03	0.04	0.05	43	0.06	0.08	0.12	59	0.20		
28	0.03	0.04	0.06	44	0.06	0.08	0.13	60	0.24		
29	0.03	0.04	0.06	45	0.06	0.09	0.15	61	0.32		
30	0.04	0.04	0.06	46	0.06	0.10	0.16	62	0.41		
31	0.04	0.04	0.06	47	0.07	0.10	0.18	63	0.62		
32	0.04	0.05	0.07	48	0.07	0.11	0.22	—	—		

Schedule 10

34. In paragraph 12(1) of Schedule 10 to the principal Regulations, for the words "5 years", there shall be substituted the words "2 years".

Transfer of functions to the Treasury

35. In the principal Regulations, for the words "Minister for the Civil Service" wherever they occur, there shall be substituted "Treasury"^(a).

Revocations

36. Regulation 54 of the principal Regulations is hereby revoked.

Application of Regulations

37. The amendments made by regulations 7, 9, 19 and 34 shall apply only where the person ceased to hold the employment concerned, or (in relation to regulations 10 to 12) where the death concerned occurred, on or after 6th April 1988.

Right to opt out

38. No provision of these Regulations shall apply to any person to whom at any time before 30th October 1989 any benefit including a return of contributions was or may become payable if—

- (a) he is placed by that provision in a worse position than he would have been in if it had not applied in relation to that benefit; and
- (b) that provision relates to a benefit paid or payable in respect of a person who—
 - (i) ceased before 30th October 1989 to be in reckonable service; or
 - (ii) died before that date while employed in reckonable service; and
- (c) the person first mentioned in this regulation elects by giving notice in writing to the Secretary of State within 6 months after 30th October 1989, that the provision shall not apply to him.

St. Andrew's House, Edinburgh
29th August 1989

Michael B. Forsyth
Parliamentary Under Secretary of State,
Scottish Office

We consent

19th September 1989

Nigel Lawson
David Lightbown
Two of the Lords Commissioners of Her Majesty's Treasury

(a) See the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Superannuation) (Scotland) Regulations 1980 ("the principal Regulations") to ensure that the scheme for the superannuation of persons engaged in the National Health Service in Scotland complies with the requirements of the Social Security Act 1986.

The principal changes are as noted below.

- (a) The 2 year waiting period for those whose duties are not wholly or mainly administrative, professional or clerical is abolished and minimum age for entry is reduced to age 16 (regulation 5).
- (b) Membership of the superannuation scheme is no longer a compulsory requirement of Health Service employment and members and prospective members may elect not to participate in the Scheme (regulation 6).
- (c) The minimum qualifying period for pension is reduced from 5 years to 2 years (regulation 7).
- (d) Where an officer or practitioner retires on ill-health grounds and has 2 years' but less than 5 years' service pension will be brought into payment immediately but without enhancement. The qualifying period for enhancement on ill-health retirement will continue to be 5 years' reckonable service (regulations 18 and 28).
- (e) A widower's pension will now be payable for service from 6th April 1988. Provision is made in these Regulations for the purchase of pre-6th April 1988 service by means of a reduction in lump sum retiring allowance of two-eightieths for each year of service before 25th March 1972 and a one-eightieth reduction for each year of service between 25th March 1972 and 5th April 1988. Additionally a married female officer may purchase an unreduced retiring allowance either by means of regular deductions from her salary or by lump sum payment at full rate for service before 25th March 1972 and half rate for service from 25th March 1972 to 5th April 1988. The provision for nomination of a dependent husband has been retained (regulations 8, 13 and 17).
- (f) Provision is made for the Guaranteed Minimum Pension element of pension to be increased (regulation 14).
- (g) Provision is made whereby, when a practitioner elects not to participate in the benefits of the scheme and partnership remuneration is calculated on the basis of shares in the partnership under proviso (a) to regulation 68(2) or sub-paragraphs (i) or (ii) of proviso (b) to regulation 68(2) of the principal Regulations, it will be necessary for all members of the partnership to agree the allocation of remuneration whether or not one or more members of the partnership have elected that the regulations shall not apply to them (regulation 26).
- (h) A discretionary provision allows for the continuation of a widow's or widower's pension on remarriage or cohabitation where the Secretary of State is satisfied that cessation of the pension would cause severe financial hardship (regulation 10).
- (i) Provision is made that where an officer requests to transfer service to a personal pension, any service prior to 6th April 1988 which amounts to less than 2 years may be transferred. Where service prior to 6th April 1988 is more than 2 years benefits will be preserved in the scheme for payment at normal retiring age. If the officer leaves employment before age 59 a transfer of accrued benefits may be made (regulation 30).
- (j) As a consequence of the Transfer of Functions (Minister for the Civil Service) Order 1981 (S.I. 1981/1670), article 2, reference to Treasury is substituted for all references to Minister for the Civil Service - regulations 9, 51, 52 and 65 of the principal Regulations (regulation 35).
- (k) Provision is made for child's allowance to be paid at the higher rate when there is no liability for widow/widowers' pension or where the widow/widowers' pension has ceased (regulation 32).

These Regulations also make a number of minor and consequential amendments.

Section 12(1) of the Superannuation Act 1972 authorises the making of Regulations with retrospective effect. These Regulations have effect as from 6th April 1988

Regulation 38 provides in certain circumstances for a person who is placed in a worse position as a result of an amendment made by these Regulations to elect within a specified time that the provision in question shall not apply.

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