

1989 No. 804

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Superannuation)
Amendment Regulations 1989**

<i>Made - - - -</i>	<i>8th May 1989</i>
<i>Laid before Parliament</i>	<i>11th May 1989</i>
<i>Coming into force</i>	<i>1st June 1989</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 10(1), (2) and (3) and 12(1) and (2) of, and Schedule 3 to 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(b) and with the consent of the Treasury(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations, which may be cited as the National Health Service (Superannuation) Amendment Regulations 1989 shall come into force on 1st June 1989 and shall have effect as set out in the following paragraph.

(2) The regulations specified in regulation 35 shall have effect from the dates respectively specified in that regulation.

(3) In these Regulations “the principal Regulations” means the National Health Service (Superannuation) Regulations 1980(d).

Amendment of regulation 3 of the principal Regulations

2. In regulation 3 of the principal Regulations (definitions)—

(a) after the definition of “participating employment” there is 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 the case of a practitioner, a period of 3 months ending on the last day of March, June, September or December as the case may be;”;

(b) after the definition of “pensionable age” there is inserted the following definition—

“ ‘personal pension scheme’ shall be construed in accordance with section 84 of the Social Security Act 1986(e);”;

(c) after the definition of “retiring allowance” there is inserted the following definition—

(a) 1972 c.11; section 10(1)(a) was amended by Schedule 5 to the National Health Service Reorganisation Act 1973 (c.32).

(b) See section 10(4) of the Superannuation Act 1972.

(c) See section 10(1) and the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670), article 2.

(d) S.I. 1980/362, amended by S.I. 1981/1205, 1982/288, 1765, 1985/39, 1987/2218.

(e) 1986 c.50.

“‘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(a) 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;”;

- (d) in the definition of “service” for the words “18 years” there are substituted the words “16 years”; and at the end of sub-paragraph (c) there is inserted the word “or” and after that sub-paragraph there is added—

“(d) any period of employment subject to an election made under regulation 6(2);”.

Amendment of regulation 4 of the principal Regulations

3.—(1) Regulation 4(1) of the principal Regulations (application) shall be amended as follows—

- (a) after “5” there is inserted “, 6” and for the words “18 years” there is substituted “16 years”;
- (b) in sub-paragraph (a) the words “whose duties are wholly or mainly administrative, professional or clerical” are omitted;
- (c) sub-paragraphs (b), (c) and (d) are revoked;
- (d) for sub-paragraph (f) there is substituted—

“any part-time officer who is employed by one or more employing authorities, or by one or more employing authorities and by such other body or bodies as the Secretary of State may designate, in an employment or employments none of which is subject to an election under regulation 6(2), for such hours in any period as in the aggregate amount to not less than one-half of the hours which would constitute whole-time employment in his case;”;

- (e) sub-paragraph (g) is revoked;
- (f) proviso (i) is revoked and after proviso (iv) the following further proviso is added—

“(v) for the purposes of sub-paragraph (f) of this paragraph—

- (a) 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 that requirement if his hours of employment under sub-paragraph (e) (not being employment subject to an election under regulation 6(2)) when added to his hours of employment under sub-paragraph (f) would be not less than the period of hours required under that paragraph;
- (b) a part-time officer who continues to be employed by an employing authority shall not cease to be treated as an officer in respect of any period, not exceeding one month, during which his hours of employment are less than one-half of the hours which would constitute whole-time employment in his case;
- (c) a person who, prior to 6th April 1988, satisfied the requirements of paragraph 1(c) of Schedule 6 may continue to qualify to be treated as an officer as if those requirements continued to apply in his case.”.

(2) Schedule 6 to the principal Regulations (application to persons employed in a part-time capacity) is revoked.

Amendment of regulation 6 of the principal Regulations

4. For regulation 6 of the principal Regulations (participation in superannuation benefits) there is substituted the following—

“Participation in superannuation scheme

6.—(1) Every officer, unless he has made or is deemed to have made an election under paragraph (2), shall participate in the scheme provided under these Regulations, subject to and in accordance with the terms and conditions thereof.

(a) 1988 c.1.

(2) An officer may at any time, by giving notice in writing to his employing authority, elect not to participate in the scheme provided under these Regulations and such an election may be made in respect of all or any of the employments in which he is an officer.

(3) An officer who makes an election under paragraph (2) shall, in respect of the employment or employments to which it relates, be treated as having ceased to be an officer within the meaning of regulation 4 from the date on which the election takes effect.

(4) An election pursuant to paragraph (2) shall take effect from the beginning of the pay period immediately following its receipt or such later date, if any, as is specified in the election provided that—

(a) where on or before 6th April 1988 an officer gave notice that he did not wish to participate in the scheme provided under these Regulations, that notice shall be treated as an election under paragraph (2) with effect from 6th April 1988 or such later date as is specified in the notice;

(b) in the case of an officer who commenced employment on or after 6th April 1988 an election made during the first pay period of that employment shall, if so expressed, take effect from the beginning of the first day of that employment.

(5) Subject to paragraph (6), a person who would be an officer but for an election under paragraph (2) may at any time revoke that election by giving notice in writing to his employing authority and such notice shall take effect from the beginning of the pay period immediately following its receipt or such later date, if any, as is specified in the notice.

(6) A person may not revoke an election—

(a) at any time whilst he is absent from duty, for whatever reason, or

(b) where in consequence of the election benefits become payable under regulation 8,

and in a case to which sub-paragraph (b) applies any subsequent employment to which these Regulations would otherwise apply shall be deemed to be subject to an irrevocable election under paragraph (2).

(7) Where a person in respect of whom the conditions set out in regulation 4(1)(f) are satisfied was, at 5th April 1988, a person in respect of whom an election pursuant to Schedule 6 of these Regulations could have been, but was not, made such person shall be deemed to have made an election under paragraph (2) on that date.”

Reduction in period of qualifying service

5. In regulations 8(1)(a)(i), (iv) and (v), 8(5)(b), 14(1)(b), 14(3)(a) and 16(1) of the principal Regulations for the words “5 years” there is substituted “2 years”.

Amendment of regulation 8 of the principal Regulations

6.—(1) In regulation 8(1)(a)(iv) of the principal Regulations (entitlement to pension) after the words “regulations 37(5)(b)” there is inserted “or (c)”.

(2) In regulation 8(2)(c) of the principal Regulations (requirements relating to payment of pension and lump sum) after the word “employment” there is inserted “or, in the case of a person who would be an officer but for an election under regulation 6(2), of discharging efficiently the duties of his employment”.

Amendment of regulation 13 of the principal Regulations

7. In regulation 13(4) of the principal Regulations (widower’s entitlement to death gratuity) after the words “or a widower’s pension” there is inserted “except that no reduction in the amount of the death gratuity shall be made under paragraphs (2) or (3) in respect of a widower’s pension payable under regulation 18A or 18B”.

Amendment of regulation 14 of the principal Regulations

8.—(1) In regulation 14(1) of the principal Regulations (entitlement to widow’s pension) after the word “officer” where it appears in proviso (i) there is inserted the words “unless those spouses were previously married to each other at the date he last ceased to be an officer”.

(2) At the beginning of regulation 14(6) of the principal Regulations (circumstances in which a widow's pension shall not be payable) there is inserted "Subject to paragraph (6A)" and after paragraph (6) there is inserted—

"(6A) Where the disallowance of a widow's pension under paragraph (6)(a) or (b) would result in severe financial hardship the Secretary of State may restore the widow's pension in whole or in part; if he does so he may take account of any deficiency payment already made under paragraph (7)."

Insertion of regulation 14A of the principal Regulations

9. After regulation 14 of the principal Regulations there is inserted—

"Polygamous marriages

14A. Where on the death of a person referred to in regulation 13(1), 14(1) or 16(1) it appears to the Secretary of State that there is no widow who would be entitled to receive the death gratuity, annual widow's pension or limited pension, as the case may be, but the deceased was at the date of his death married to a wife under a law which permits polygamy, the wife of that polygamous marriage shall be treated as if she were such a widow and where there are two or more such wives each shall be entitled to an equal share of the death gratuity, annual widow's pension or limited pension provided that such share in relation to any such pension shall not be increased by reason of the death of any other wife so entitled."

Amendment of regulation 15 of the principal Regulations

10. In regulation 15(2)(b) of the principal Regulations (child's allowance) for the words "first awarded on 6th April 1987" there is substituted "first beginning on 6th April 1987".

Widowers pensions

11.—(1) At the beginning of regulation 18 of the principal Regulations (nomination for a widower's pension) there is inserted "In respect of contributing service prior to 6th April 1988".

(2) After regulation 18 of the principal Regulations there is inserted—

"Widower's pension in respect of service after 5th April 1988

18A.—(1) The widower of a person in respect of whom there is a period of contributing service after 5th April 1988 (including a period added as a result of an election under regulation 25 made after that date) shall, in relation to that service, be entitled to receive from the Secretary of State an annual widower's pension or, as the case may be, a limited pension and such widower's or limited pension shall, subject as aforesaid, be payable in like circumstances and calculated in like manner as a widow's pension under regulation 14 or a limited pension under regulation 16 as the case may be.

Purchase of increased widower's pension

18B.—(1) Subject to the following provisions of this regulation a female officer, unless she is a person in respect of whom a pension has already become payable under regulation 8, may, in respect of the whole or any part of her contributing service prior to 6th April 1988, elect to purchase an increase in the amount of any annual widower's pension which may become payable by virtue of regulation 18A.

(2) The purchase of an increase pursuant to paragraph (1) may be made only in respect of complete years of service unless the officer wishes to purchase an increase in respect of all of her service before 6th April 1988 or all of her service in respect of the period beginning on 25th March 1972 and ending on 5th April 1988 in which case the whole of the requisite period may be purchased whether or not it constitutes a multiple of complete years of service.

(3) An election pursuant to paragraph (1)—

(a) shall be made not later than 30th June 1989 by giving notice in writing to the Secretary of State specifying the period in respect of which the election is made;

(b) must be accompanied by a declaration in writing signed by the officer that she is of sound health for her age;

(c) shall be irrevocable.

(4) Schedule 7A shall have effect with regard to the cost of providing the increase provided for pursuant to paragraph (1).”.

(3) After Schedule 7 to the principal Regulations there is inserted Schedule 7A as set out in Schedule 1 to these Regulations.

Amendment of regulation 19 of the principal Regulations

12. Regulation 19 of the principal Regulations (power to compound small benefits) is amended as follows—

(a) in paragraph (1) after the word “widow’s” in both places where it occurs there is inserted “or widower’s”;

(b) in paragraph (2A) after the word “widow” there is inserted “or to her widower”.

Amendment of regulation 20 of the principal Regulations

13. Regulation 20 of the principal Regulations (entitlement to guaranteed minimum pension) is amended as follows—

(a) there is inserted at the beginning of paragraph (1)(b) the words “in the case of a male officer,”;

(b) at the end of paragraph (1)(b) there is inserted the word “and” and there is added the following new sub-paragraph—

“(c) in the case of a female officer, if she dies on or after 6th April 1989 and leaves 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), the weekly rate of which shall not be less than one half of that part of her guaranteed minimum which is attributable to earnings factors for the tax year 1988–89 and subsequent tax years.”;

(c) after paragraph (1) there is added—

“(1A) The guaranteed minimum pensions referred to in paragraph (1) shall, insofar as they are attributable to earnings factors for the tax year 1988–1989 and subsequent tax years, be increased in accordance with any orders made under section 37A of the Pensions Act(b).

(1B) For the avoidance of doubt, paragraph (1) shall override any other provisions of these Regulations which are inconsistent with it.”.

Amendment of regulation 21 of the principal Regulations

14. Regulation 21 of the principal Regulations (transfer payments to the Secretary of State in respect of previous employment) is amended as follows—

(a) for paragraph (3) there is substituted—

“(3) Subject to paragraphs (4), (4B), (4C) and (6), where a person revokes an election under regulation 6(2) or enters employment as an officer in circumstances in which paragraph (1) does not apply, and arising out of his previous employment he has accrued rights to benefits under a superannuation or personal pension scheme (including rights appropriately secured under section 52C of the Pensions Act but excluding rights to benefits arising out of the payment of additional voluntary contributions in accordance with section 591(2)(h) of the Income and Corporation Taxes Act 1988(c)), the service to which those rights relate 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) Section 36(7A) was inserted by the Social Security Act 1986 (c.50), section 9(3)(c).

(b) Section 37A was inserted by the Social Security Act 1986 (c.50), section 9(7).

(c) 1988 c.1.

- (a) within 12 months of revoking his election or entering employment as an officer he gives written notice to the Secretary of State that he wishes the Secretary of State to request a transfer payment in relation to some or all of those rights, and
 - (b) such a payment is made to the Secretary of State indicating, where requested, the period of service in respect of which it is made.”;
- (b) after paragraph (4) there is inserted—

“(4A) Subject to paragraphs (4B) and (6)(b), where a person who has rights to benefits under a self-employed pension arrangement revokes an election under regulation 6(2) or enters employment as an officer then, if within 12 months of revoking that election or entering that employment he gives written notice to the Secretary of State, that he wishes the Secretary of State to request a transfer payment in respect of some or all of his 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) Any rights which could have been but were not the subject of a notice under paragraph (3)(a) or (4A) may not subsequently be included in a notice under either of those paragraphs if that subsequent notice is dependent upon the revocation of an election under regulation 6(2).

(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.”.

Amendment of regulation 34 of the principal Regulations

15. Regulation 34 of the principal Regulations (calculation of service) is amended as follows—

- (a) at the end of paragraph (1)(a) there is added—
“Provided that sub-paragraph (a)(ii) shall not apply in the case of a person who, not being entitled to participate in the scheme provided under these Regulations prior to 6th April 1988, does not become an officer within one month of that date.”;
- (b) in paragraph (3) after the words “regulation 8(1)(a)(i)” there is inserted “and the officer has completed not less than 5 years’ service”.

Amendment of regulation 37 of the principal Regulations

16. Regulation 37(5) of the principal Regulations (return of contributions) is amended as follows—

- (a) for paragraph (a) there is substituted—
“(a) after 5th April 1975 if on ceasing to be an officer he has completed 2 years’ service (excluding any added years) subsequent to that date.”;
- (b) for paragraph (c) there is substituted—
“(c) in respect of which there has been paid to the Secretary of State a transfer payment in respect of his rights under a personal pension scheme.”.

Amendment of regulation 41 of the principal Regulations

17. In regulation 41(3) of the principal Regulations (calculation of benefits in the case of certain re-employed pensioners) after the words “the service reckonable by him” there is inserted “(other than, in a case where regulation 8(4) applies, contributory service added under regulation 34(3) in respect of any further pension to which he becomes entitled)”.

Qualifying period in the case of optants

18. In regulations 44(7)(e), 45(1)(b) and (c), 46(5)(b) and 48(9)(c)(ii) of, and in paragraph 12(1) of Schedule 10 to, the principal Regulations for the words “5 years” in each place where they appear there is substituted “2 years”.

Amendment of regulation 46 of the principal Regulations

19. Regulation 46 of the principal Regulations (minimum benefits for certain optants) is amended by inserting the following paragraph after paragraph (7)–

“(7A) Where the officer to whom this regulation applies is a female, paragraphs (3) to (7) shall apply as if–

- (a) any reference to a male officer was a reference to a female officer and any reference to a widow’s pension was a reference to a widower’s pension;
- (b) the reference in paragraph (3) to 6th April 1978 was a reference to 6th April 1988.”.

Revocation of regulation 52 of the principal Regulations

20. Regulation 52 of the principal Regulations (benefits in case of late entrants) is revoked.

Amendment of regulation 55 of the principal Regulations

21. In regulation 55(2)(b) of the principal Regulations (mental health officers) for the words “from and including attainment” there is substituted “after attainment”.

Limits on pensionable remuneration in the case of new officers

22.—(1) After regulation 58 of the principal Regulations there is inserted–

“Modifications in connection with Inland Revenue requirements

58A.—(1) This regulation applies in the case of a person who becomes an officer on or after 1st June 1989 (whether or not he may at any time previously have been an officer) except where on becoming an officer on or after that date–

- (a) he is entitled (either under these Regulations or under a health service scheme) to reckon an earlier period of service which includes service prior to that date, and
- (b) either–
 - (i) that earlier period of service becomes reckonable under regulation 21(1) or 82(2)(d), or
 - (ii) the break in his service prior to becoming an officer on or after that date was by reason of his secondment or posting to another employer in circumstances where there was at the time of the secondment or posting a definite expectation that he would again become an officer.

(2) In the case of a person to whom this regulation applies, in calculating the amount of any contributions due or benefits payable under these Regulations, no account shall be taken of any remuneration in excess of the permitted maximum laid down in relation to retirement benefit schemes approved under section 590 of the Income and Corporation Taxes Act 1988(a).”.

(2) In the definition of remuneration in regulation 3 of the principal Regulations after the words “except as provided in regulation 2(6),” there is inserted “58A,”.

(3) In regulation 69(2) of the principal Regulations (meaning of “remuneration” in relation to practitioners) there is inserted at the beginning “Subject to regulation 58A,”.

(4) In regulation 77(a) of the principal Regulations (meaning of “remuneration” in relation to assistant practitioners) there is inserted at the beginning “subject to regulation 58A,”.

Amendment of regulation 66 of the principal Regulations

23. For regulation 66(1) of the principal Regulations (accounts) there is substituted–

“(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.”

(a) 1988 c.1.

Transfer of functions to the Treasury

24. In regulations 7(1)(b), 49(2) and (3), 50(1), (2) and (3) and 66(3) of the principal Regulations for the words "Minister for the Civil Service" in each place where they appear there is substituted "Treasury".

Amendment of regulation 67 of the principal Regulations

25. For regulation 67 of the principal Regulations there is substituted the following—

"Application to practitioners

67.—(1) Subject to paragraph (2), these Regulations shall apply to every practitioner as if he were an officer in the employment of a Family Practitioner Committee.

(2) In the case of a practitioner who is on the list of more than one Family Practitioner Committee an election pursuant to regulation 6(2) in respect of any one of those Family Practitioner Committees, or the revocation of such an election, shall also be deemed to apply in respect of any such other Family Practitioner Committee.

(3) Notwithstanding paragraph (2), a practitioner who makes an election under regulation 6(2) 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 regulation 69 of the principal Regulations

26. After paragraph (9) of regulation 69 of the principal Regulations (meaning of "remuneration" in relation to a practitioner) there is added—

"(10) For the purpose of calculating, under paragraph (2) above, the remuneration of a practitioner who is in partnership with one or more other practitioners or who employs one or more assistant practitioners, any election under regulation 6(2) by any of those other practitioners shall be disregarded."

Amendment of regulation 72 of the principal Regulations

27. At the end of regulation 72(1) of the principal Regulations (prior service to be treated as practitioner service) there is added 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 (there being left out of account in either case any added years or any period added under Regulations 34 and 75), and
- (b) treatment of the prior service as practitioner service would operate so as to reduce the amount of the benefits payable."

Amendment of regulation 75 of the principal Regulations

28. In regulation 75(2) and (3) of the principal Regulations (reckoning of practitioner service) after the words "to a practitioner" there is inserted "who has not less than 5 years service and".

Amendment of regulation 76 of the principal Regulations

29. In regulation 76 of the principal Regulations (abatement of pension in relation to practitioners) after the word "disregarded" there is inserted "unless that pension became payable in consequence of the practitioner being subject to an election under regulation 6(2) in which case such further employment shall not be disregarded".

Amendment of regulation 80 of the principal Regulations

30. Regulation 80 of the principal Regulations (right to a transfer payment) is amended as follows—

(a) for paragraph (1) there is substituted—

“(1) Subject to paragraphs (1A), (3) and (5), where a person has either left an employment or made an election under regulation 6(2) and as a result is no longer an officer in relation to any employment then if—

- (a) his employment terminated or his election took effect before he attained the age of 60 years, or where paragraph (5) applies, the age of 59 years;
- (b) he is a person—
 - (i) who has completed 2 or more years’ service, or
 - (ii) who has within 12 months of the date on which his employment terminated or his election took effect or within such longer period as the Secretary of State may allow, become a member of a superannuation scheme or entered into an arrangement in respect of which paragraph (5) applies and has, within the aforementioned period, or in the case of a transfer to a superannuation or personal pension scheme within 12 months of becoming a member of that scheme, made an application for a transfer payment under subparagraph (d);
- (c) no benefit under these Regulations has been paid, or, where paragraph (5) applies, is payable, to him other than—
 - (i) a benefit consisting of a return of contributions in respect of part only of his contributing service (whether or not repaid to the Secretary of State), or
 - (ii) a benefit consisting of a return of contributions in respect of all his contributing service paid to him by the Secretary of State under regulation 37 where he has repaid to the Secretary of State an amount equal to the sum received by him, or
 - (iii) any funds paid to him on account of benefit under these or the previous Regulations, where he has ceased to be employed in the circumstances mentioned in regulation 8(7) and has repaid to the Secretary of State the amount paid to him;
- (d) he has, before attaining—
 - (i) the age of 60 years, or
 - (ii) where paragraph (5) applies the age of 59 years or six months after the date on which he ceased to be subject to these Regulations, whichever is later,made an application in writing to the Secretary of State for a transfer payment to be made, and has not subsequently withdrawn it in accordance with paragraph 9(a); and
- (e) he is not a person the whole of whose benefits under these Regulations have been forfeited by virtue of a direction made by the Secretary of State under regulation 62,

the Secretary of State shall, in respect of that person provide a transfer payment, calculated in accordance with Part I of Schedule 2, to be used at that person’s option in one or more of the ways set out in paragraph 13(2) of Schedule 1A to the Pensions Act.”;

(b) after paragraph (1) there is inserted—

“(1A) Notwithstanding the provisions of paragraph (1)—

- (a) a transfer payment arising out of the termination of an officer’s employment may be made to a personal pension scheme or a self-employed pension arrangement only—
 - (i) if the employment was terminated on or after 1st January 1986, and
 - (ii) in a case where the application relates to a period of contributing service of 2 years or more falling before 6th April 1988, if a period of not less than one month has elapsed between the date of the termination of the employment and the date of the commencement of any further employment in which he is entitled to participate in the scheme provided under these Regulations;

- (b) a transfer payment arising out of an election under regulation 6(2) may relate only to a period of contributing service falling on or after 6th April 1988 unless the applicant's contributing service prior to that date is less than 2 years, in which case that service shall also be included.”;
- (c) in paragraph (2) the word “old” is omitted and after the word “employment” in the second place where it appears there is inserted “as officers”;
- (d) in paragraph (5) after the words “insurance companies” there is inserted “or to a personal pension scheme or self-employed pension arrangement”.

Amendments relating to transfers from Community Institutions

- 31.**—(1) Regulation 8(1)(a)(iii) of the principal Regulations is revoked.
- (2) In regulation 20(3)(c)(ii) of the principal Regulations the words “except that” to the end are omitted.
- (3) In regulation 80(4) of the principal Regulations the words “other than the provisions of regulation 8(1)(a)(iii) and regulation 20(3)(c)(ii)” are omitted.

Amendment of Schedule 2 to the principal Regulations

- 32.** Schedule 2 to the principal Regulations (calculation of transfer payments and of credited service) is amended as follows—
- (a) in paragraph 1 for the words “2, 3, 4, 6 and 7” there is substituted “2, 3, 5 and 6”;
 - (b) for paragraph 3 there is substituted—

“3. Where a transfer payment is to be made in circumstances where the recipient is not to become responsible for the provision of benefits in respect of a person's accrued rights to any guaranteed minimum pension the transfer payment shall be reduced by the deduction of an amount sufficient to enable the Secretary of State to meet his liability in respect of any such guaranteed minimum pension.”;
 - (c) in paragraph 4(c) after the word “officer” there is inserted “or the date on which he ceased to be an officer by virtue of an election under regulation 6(2)”;
 - (d) in paragraph 8(b) for the words “material date” there is substituted “appropriate date”;
 - (e) at the end of paragraph 9(1)(a) the word “and” is omitted and after that paragraph there is inserted—

“(aa) in the case of a transfer from a self-employed pension arrangement a period of service calculated in accordance with paragraph 8(b);”;
 - (f) in paragraph 9(1)(b) after the word “superannuation” there is inserted “or personal pension”.

Amendment of Schedule 5 to the principal Regulations

- 33.** In Schedule 5 to the principal Regulations (child's allowance) after paragraph 4 there is inserted—
- “4A. Where there is a surviving parent or spouse of a parent but the circumstances are such that at the time of the officer's death there was no entitlement to a widow's or a widower's pension, any child's allowance payable under these Regulations shall be paid at the rate applicable had there been no surviving parent or spouse of a parent.”.

Amendment of Schedule 8 to the principal Regulations

- 34.** Schedule 8 to the principal Regulations (purchase of unreduced retiring allowance) is amended by inserting at the beginning of Table 1 the entries set out in Part I of Schedule 2 to these Regulations and by inserting at the beginning of Table 2 the entries set out in Part II of Schedule 2 to these Regulations.

Regulations having retrospective effect

35.—(1) Regulations 8(1) and 9 of these Regulations shall have effect from 20th July 1984.

(2) Regulation 17 of these Regulations shall have effect from 3rd June 1986.

(3) Regulation 27 of these Regulations shall have effect from 1st March 1987.

(4) Regulations 2(c), 3 to 7, 8(2), 11 to 13, 15, 16, 19, 25, 26, 28, 29, 30, 33 and 34 of these Regulations shall have effect from 6th April 1988.

Option to persons detrimentally affected by these Regulations

36.—(1) This regulation applies in relation to any pension which is being paid or may become payable under the principal Regulations to or in respect of a person who, having served in an employment or office service in which qualifies persons to participate in the benefits provided under the principal Regulations, has ceased to serve therein or died before these Regulations come into force.

(2) Where, in a case to which this regulation applies, any provision of these Regulations would operate in relation to any person so as to place that person in a worse position than he would have been if the provision had not applied, that person may elect that the provision shall not so apply by giving notice in accordance with paragraph (3).

(3) A notice given pursuant to paragraph (2) shall be in writing and shall be delivered to the Secretary of State within 6 months of the coming into force of these Regulations.

Signed by authority of the Secretary of State for Health.

R. N. Freeman
Parliamentary Under-Secretary of State,
Department of Health

8th May 1989

We consent to the making of these Regulations.

Stephen Dorrell
Alan Howarth
Lords Commissioners of Her Majesty's Treasury

8th May 1989

SCHEDULE 1

SCHEDULE TO BE INSERTED IN THE PRINCIPAL REGULATIONS

“SCHEDULE 7A

Regulation 18B

PURCHASE OF INCREASED WIDOWER'S PENSION

1. Where an officer has elected to purchase an increase in widower's pension under regulation 18B(1) there shall be deducted—

- (a) from any lump sum retiring allowance payable by virtue of regulation 9(3) in respect of that officer, or
- (b) from any death gratuity which is payable by virtue of regulation 13, except in a case to which regulation 13(2)(c)(iii)(b) applies,

an amount calculated in accordance with the provisions of paragraphs 2 and 3.

2.—(1) Where the purchase relates to a period of contributing service before 25th March 1972 the amount to be deducted under paragraph 1 shall—

- (a) in respect of service otherwise than as a practitioner, be a sum equal to 2/80ths of her average remuneration for each complete year falling within that period;
- (b) in respect of service as a practitioner, be a sum equal to 2.8 per cent of her total up-rated remuneration for each complete year falling within that period.

(2) Where the purchase relates to a period of contributing service beginning on or after 25th March 1972 and ending on or before 5th April 1988 the amount to be deducted under paragraph 1 shall—

- (a) in respect of service otherwise than as a practitioner, be a sum equal to 1/80th of her average remuneration for each complete year falling within that period;
- (b) in respect of service as a practitioner, be a sum equal to 1.4 per cent of her total up-rated remuneration for each complete year falling within that period.

(3) Where a part of a year falls to be taken into account in assessing the amount to be deducted under paragraph 1, the amount of the deduction in respect of each day in that part year shall be one three hundred and sixty fifth of the amount which would be deducted under sub-paragraph (1) or (2), as the case may be, in respect of a complete year.

3.—(1) Where by virtue of her election pursuant to regulation 18B(1) the amount of the retiring allowance to which an officer may become entitled would fall to be reduced under paragraph 1 she may, in accordance with the provisions of this paragraph, but subject to sub-paragraph (5), make an election to purchase an unreduced retiring allowance so as to restore in whole or in part the amount of the retiring allowance to which she may become entitled.

(2) An officer making an election under sub-paragraph (1) shall do so not later than 30th June 1989 by giving notice in writing to her employing authority.

(3) Except to the extent that they are inconsistent with the provisions of this paragraph, the provisions of regulation 27 and Schedule 8 shall apply to an election made under sub-paragraph (1) as if it were an election under regulation 27.

(4) Where the purchase of an unreduced retiring allowance under sub-paragraph (1) relates to or includes a period of service falling between 25th March 1972 and 5th April 1988 the amount of the payment or payments to be made in respect of that period shall be one-half of the amount which otherwise would fall to be paid in accordance with the provisions of Schedule 8.

(5) An officer may not make an election under sub-paragraph (1) in respect of added years of contributing service which she has elected to purchase by making payments of instalments in accordance with regulation 25(1)(b) and paragraph 2 of Schedule 7.”

SCHEDULE 2

ENTRIES TO BE INSERTED IN TABLES 1 AND 2 OF SCHEDULE 8 TO THE PRINCIPAL REGULATIONS

PART I

ENTRIES TO BE INSERTED IN TABLE 1 OF SCHEDULE 8

TABLE 1

<i>Age</i> (1)	<i>Amount appropriate in respect of each £100 of remuneration</i> (2)
20 & under	2.97
21	2.91
22	2.85
23	2.79
24	2.73
25	2.67
26	2.61
27	2.56
28	2.51

PART II

ENTRIES TO BE INSERTED IN TABLE 2 OF SCHEDULE 8

TABLE 2

<i>Age</i>	<i>Percentage of remuneration</i> <i>Date of intended retirement</i>		
	55	60	65
20 & under	.07	.06	.04
21	.07	.06	.04
22	.08	.06	.05
23	.08	.07	.05
24	.09	.07	.05
25	.09	.07	.05
26	.10	.07	.06
27	.10	.08	.06
28	.11	.08	.06

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Superannuation) Regulations 1980 ("the principal Regulations").

The main changes are as follows:-

- regulation 3 relaxes the conditions for membership of the scheme provided under the principal Regulations, in particular by reducing the minimum age requirement from 18 years to 16 years and by abolishing the requirement that manual workers must serve a 2 year waiting period.
- regulation 4, by substituting a new regulation 6 in the principal Regulations, introduces voluntary, in place of compulsory, membership of the scheme.
- regulation 5 reduces, from 5 years to 2 years, the period of qualifying service giving rise to preservation of benefits under the principal Regulations. It also reduces to 2 years the period of service giving rise to entitlement to a widow's pension in the case of death in service and the period below which there may be entitlement to a limited pension.
- regulation 11 introduces entitlement to a widower's pension in respect of service from 6th April 1988 and also enables the purchase of an increase in such a pension in respect of service before that date.
- regulation 14 extends regulation 21 of the principal Regulations to provide for transfer payments to the scheme from personal pension arrangements and self-employed pension arrangements.
- regulation 22, by inserting a new regulation 58A of the principal Regulations, introduces a limit on pensionable remuneration for those who become members of the scheme on or after 1st June 1989 and, subject to exceptions, for those who resume membership on or after that date.
- regulations 25 to 29 make amendments to Part III of the principal Regulations (provisions relating to Medical and Dental Practitioners). In particular, amendments are made consequent upon regulation 4 of these Regulations (introduction of voluntary membership).
- regulation 30 amends regulation 80 of the principal Regulations by providing a person who elects to leave the scheme with entitlement to a transfer payment and by making provision with regard to transfers to personal pension arrangements and self-employed pension arrangements.

A number of consequential, miscellaneous and drafting amendments are also made.

Regulation 35, which is made under powers conferred by section 12(1) of the Superannuation Act 1972, provides that certain of the amendments are to have retrospective effect. Regulations 8(1) and 9 have effect from 20th July 1984; regulation 17 has effect from 3rd June 1986; regulation 27 has effect from 1st March 1987 and regulations 2(c), 3 to 7, 8(2), 11 to 13, 15, 16, 19, 25, 26, 28, 29, 30, 33 and 34 have effect from 6th April 1988.

Regulation 36 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 that the provision in question shall not apply.