

1984 No. 336

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Superannuation)
Regulations (Northern Ireland) 1984

Made 18th September 1984

Coming into operation 29th October 1984

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The Department of Health and Social Services, in exercise of powers conferred by Articles 12 and 14 of the Superannuation (Northern Ireland) Order 1972(a) and of all other powers enabling it in that behalf, after consulting such representatives of persons likely to be affected by these regulations as appear to it to be appropriate, and with the consent of the Department of Finance and Personnel for Northern Ireland(b), hereby makes the following regulations:—

PART I

PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1984, and shall come into operation on 29th October 1984, and shall take effect—

- (a) for the purposes of regulation 4(1)(e) as from 1st April 1981;
- (b) for the purposes of regulation 18(1)(b) as from 6th April 1978 in respect of any person who was an officer on or after that date;
- (c) for the purposes of regulations 33(1) and 36(4)(e) as from 1st April 1980;
- (d) for the purposes of regulation 65(1) and (2) and regulation 66(1) as from 31st March 1977; and
- (e) for the purposes of all other regulations as from 29th October 1984.

Interpretation

2.—(1) In these regulations any reference to non-contributing service under a local Act scheme shall be construed as a reference to non-contributing service as defined in the relevant local Act scheme.

(2) In these regulations—

- (a) reference to officers or to officers of an employing authority shall be construed as including references to persons who are deemed for the purposes of these regulations to be in the employment of an employing authority or of a body which is deemed to be an employing authority, and any other provisions relating to employment by or under an employing authority shall be construed accordingly; and
- (b) references to a person's having become or having been an officer or a practitioner shall, if that person became an officer or a practitioner by virtue of the previous regulations, be construed as references to that person's having become or having been an officer or a practitioner by virtue of and within the meaning of those regulations.

(3) For the purposes of exercising any rights which are dependent on, and limited in time by reference to, a person's having become an officer, a person shall not be deemed to have become an officer on the date of coming into operation of these regulations if, immediately before that date, he was an officer within the meaning of the 1962 regulations and, without any break in employment, is an officer within the meaning of these regulations.

(4) For the purposes of these regulations a person shall not be treated as having become an officer in consequence of the acquisition of premises by the Authority under section 67 of the Act unless, immediately before and at the date of acquisition, he was employed at the premises, or for the purposes of administering the services provided at the premises, and entered the employment of an employing authority as an officer in consequence of that acquisition.

(a) S.I. 1972/1073 (N.I. 10)

(b) Formerly the Department of Finance: See S.I. 1982/338 (N.I. 6) Art. 3

(5) Where a person holds under an employing authority 2 or more separate employments of such a nature that he can cease to hold one without ceasing to hold the other, the provisions of these regulations shall apply to him in relation to each of the separate employments as if the other were an employment held by him under another employing authority.

(6) In these regulations, references to an officer's contributions (except references in regulations 6, 26, 28, 29, 30, 40, 44, 51 and 63) shall be construed as including references to—

- (a) any sums contributed by him under regulation 6 or the corresponding provision of the previous regulations;
- (b) any sums paid by him by way of additional contributory payments;
- (c) any sum paid by him under regulation 22, 23, 24, 30, 41, 42 or the corresponding provision of the previous regulations;
- (d) any sums contributed under any superannuation scheme during employment which is reckonable as service under the provisions of regulation 18;
- (e) any sums paid by him under a scheme made under section 28(3) of the Widows', Orphans' and Old Age Contributory Pensions Act 1936(a) (which conferred a power to modify existing superannuation schemes) or the corresponding provisions of any Act repealed by that Act; and
- (f) any contributions which, by virtue of rule 20 of the Superannuation (Civil Service and Local Government) Interchange Rules 1968(b), or rule 10 of the Superannuation (English Local Government and Northern Ireland Civil Service) Interchange Rules 1957(c), or rule 10 of the Superannuation (Local Government and Northern Ireland Civil Service) Interchange (Scotland) Rules 1957(d), he would have been deemed to have made to the superannuation fund to which he was a contributor had he ceased to hold the employment in which he was such contributor in the circumstances mentioned in any of those rules.

(7) Where the remuneration of an officer in respect of 2 or more concurrent periods of part-time employment exceeds an amount which the Department determines would have been paid in respect of a single comparable whole-time employment, no account shall be taken for the purposes of these regulations of any remuneration in excess of such an amount.

(8) Where a person was at any time prior to 1st April 1959 in employment under the Northern Ireland Tuberculosis Authority such employment shall for the purposes of these regulations be deemed to have been employment under the Authority.

(9) In the construction of regulation 21 a person transferred under the Act shall be deemed to include a person in the employment of the Northern Ireland Tuberculosis Authority immediately before the appointed day and there shall be reckonable by any such person as a period of employment or service, as the case may be, for the purposes of those provisions—

- (a) any period in the employment of the Northern Ireland Tuberculosis Authority immediately prior to the appointed day, and
- (b) in the case of any such person who became an employee of the Northern Ireland Tuberculosis Authority by virtue of section 10(1) of the Public Health

(a) 1936 c. 33 (26 Geo. 5 & 1 Edw. 8)

(b) S.I. 1968/72 (1968 I, p. 182)

(c) S.I. 1957/1155 (1957 II, p. 1774)

(d) S.I. 1957/1122 (s. 61) (1957 II, p. 1795)

(Tuberculosis) Act (Northern Ireland) 1946(a), the period immediately prior to 1st September 1947 in the employment of the council of a county or county borough.

Definitions

3. In these regulations—

“the Act” means the Health Services Act (Northern Ireland) 1948(b);

“the Act of 1865” means the Union Officers Superannuation (Ireland) Act 1865(c);

“the Act of 1869” means the Local Officers Superannuation Act (Ireland) 1869(d);

“the Act of 1909” means the Asylums Officers’ Superannuation Act 1909(e);

“the Act of 1937” means the Local Government Superannuation Act 1937(f), or the Local Government Superannuation (Scotland) Act 1937(g);

“the Act of 1943” means the Belfast Corporation Act (Northern Ireland) 1943(h);

“the Act of 1953” means the Local Government Superannuation Act 1953(i);

“the Act of 1959” means the National Insurance Act (Northern Ireland) 1959(j);

“the Isle of Man Act” means the National Insurance (Isle of Man) Act 1961 (an Act of Tynwald);

“the Act of 1966” means the National Insurance Act (Northern Ireland) 1966(k);

“the Act of 1971” means the Health Services Act (Northern Ireland) 1971(l);

“the Order” means the Health and Personal Social Services (Northern Ireland) Order 1972(m);

“the Pensions Order” means the Social Security Pensions (Northern Ireland) Order 1975(n);

“the Great Britain Acts” means the National Insurance Acts 1959 and 1965(o);

“the 1948 regulations” means the Health Services (Superannuation) Regulations (Northern Ireland) 1948(p), but shall not include any amendments made by any regulations amending them;

“the 1954 regulations” means the Health Services (Superannuation) Regulations (Northern Ireland) 1954(q), but shall not include any amendments made by any regulations amending them;

“the original 1962 regulations” means the Health Services (Superannuation) Regulations (Northern Ireland) 1962(r), but shall not include any amendments made by any regulations amending them;

(a) 1946 c. 6 (N.I.)

(b) 1948 c. 3 (N.I.)

(c) 1865 c. 26

(d) 1869 c. 79

(e) 1909 c. 48

(f) 1937 c. 68 (1 Edw. 8 & 1 Geo. 6)

(g) 1937 c. 69 (1 Edw. 8 & 1 Geo. 6)

(h) 1943 c. i (N.I.)

(i) 1953 c. 25 (1 & 2 Eliz. 2)

(j) 1959 c. 21 (N.I.)

(k) 1966 c. 6 (N.I.)

(l) 1971 c. 1 (N.I.)

(m) S.I. 1972/1265 (N.I. 14)

(n) S.I. 1975/1503 (N.I. 15)

(o) 1959 c. 47 (7 & 8 Eliz. 2) and 1965 c. 51

(p) S.R. & O. (N.I.) 1948 No. 161 (p. 411)

(q) S.R. & O. (N.I.) 1954 No. 83 (p. 273)

(r) S.R. & O. (N.I.) 1962 No. 237

“the 1962 regulations” means the Health Services (Superannuation) Regulations (Northern Ireland) 1962(a);

“the English or Scottish regulations” means the regulations for the time being in force in England or Scotland, as the case may be, made under section 10 of the Superannuation Act 1972(b);

“the previous regulations” means any regulations heretofore made under section 61(1) of the Act or Article 12 of the Superannuation (Northern Ireland) Order 1972;

“the English or Scottish Local Government Regulations 1954” means the Local Government Superannuation (Benefits) Regulations 1954(c), or, as the case may be, the Local Government Superannuation (Benefits) (Scotland) Regulations 1954(d) but shall not include any amendments made by any regulations amending them;

“the Local Government Superannuation Regulations” means the Local Government (Superannuation) Regulations (Northern Ireland) 1981 to 1982(e);

“the National Insurance Regulations 1975” means the National Insurance (Non-participation — Transitional Provisions) (Northern Ireland) Regulations 1975(f);

“the Belfast Corporation Superannuation Scheme” means the former superannuation scheme made by the council of the county borough of Belfast under section 5A of the Local Government (Superannuation) Act (Northern Ireland) 1950(g);

“added years”, in relation to any person, means any additional periods of service reckonable by him under—

(a) regulation 26 of the Belfast Corporation Superannuation Scheme or regulation 43 of the Local Government Superannuation Regulations;

(b) regulation 12 of the English or Scottish Local Government Regulations 1954;

(c) any corresponding provision of any other superannuation scheme;

(d) the said regulation 12 or any such provision as aforesaid as applied by regulations made under the Third or Fourth Schedule to the Act of 1953;

(e) regulations for the time being in force under Article 11 of the Superannuation (Northern Ireland) Order 1972; or

(f) regulation 22 or regulation 22A of the 1962 regulations,

and includes any additional periods of service which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become reckonable under or by virtue of any enactment by a contributory employee or an employee subject to any other superannuation scheme;

(a) S.R. & O. (N.I.) 1962 No. 237 as amended by S.R. & O. (N.I.) 1967 No. 55; 1971 No. 352; 1972 No. 343; 1973 Nos. 101, 201 and 360; S.R. 1974 Nos. 93, 248 and 327; 1976 No. 46; 1978 No. 301 and 1983 Nos. 152 and 178

(b) 1972 c. 11

(c) S.I. 1954/1048 (1954 II, p. 1595)

(d) S.I. 1954/1059 (s. 102) (1954 II, p. 1632)

(e) S.R. 1981 No. 96; 1982 No. 58 and 1984 No. 175

(f) S.R. 1975 No. 48

(g) 1950 c. 10 (N.I.)

- “additional contributory payment” means any payment made for the purposes of regulations 26(1)(d), 27 and 28 and regulations 22 and 24(5) of the 1962 regulations, and any payment made for the purposes of the corresponding provisions of the previous regulations;
- “appointed day” means 5th July 1948;
- “approved course of study or training”, in relation to any person, means a course of study or training approved for the purposes of these regulations by the Department on the written application of that person made before or within 3 months after the commencement of the course or within such longer period as the Department may in any particular case allow;
- “assistant practitioner” means an employee of a medical practitioner or dental practitioner on the list of a Health and Social Services Board being himself a medical practitioner or dental practitioner who in such employment is wholly or mainly engaged in assisting his employer in the actual discharge of his duties as such practitioner, other than an employee of a medical practitioner for whose employment the consent of a Health and Social Services Board is not required or a trainee practitioner;
- “average remuneration” has the meaning assigned to it by regulation 33;
- “Community institution” means any institution of the European Economic Community, the European Coal and Steel Community and the European Atomic Energy Community or common to those Communities;
- “compound interest” means compound interest calculated in accordance with regulation 35;
- “contracted-out employment” shall be construed in accordance with Article 32 of the Pensions Order;
- “contributing service” means service which is reckonable as contributing service in accordance with regulation 26, 27 or 28 and includes any added years reckonable in accordance with regulation 29;
- “contributions equivalent premium” shall be construed in accordance with Article 44 of the Pensions Order;
- “contributory employee” has the same meaning as in the Act of 1937;
- “death gratuity” means a death gratuity payable under regulation 11;
- “employing authority” means a Health and Social Services Board, the Agency, the Staffs Council, the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland and any such other body constituted under the Order as the Department may approve;
- “employment in the health service of England and Wales, Scotland or the Isle of Man” means employment in which a person is subject to any regulations for the time being in force under section 10 of the Superannuation Act 1972, or section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald);
- “enactment” includes an Act of the Parliament of the United Kingdom and any provision contained in an order, regulation, rule or other instrument having effect by virtue of such an Act;
- “equivalent pension benefits” has the meaning assigned to it by sections 55(1)(a) and 56(1) of the Act of 1966;
- “excepted officer” means a person who at the date when he ceases to be employed or ceases to be an officer without ceasing to be employed is entitled to reckon as service for the purposes of these regulations any period prior to 1st August 1960, being a period during which he was an officer or was in employment in the health service of England and Wales, Scotland or the Isle

of Man and has not since the said date been engaged in any employment which is reckonable service under the provisions of regulation 18(3):

Provided that for the purpose of this definition no account shall be taken of any service which becomes reckonable by the making of additional contributory payments;

“graduated contributions” means contributions payable under section 1(1)(b) of the Act of 1959, section 4 of the Act of 1966 or the corresponding provision of the Great Britain Acts or the Isle of Man Act;

“guaranteed minimum” shall be construed in accordance with Article 37 of the Pensions Order(a);

“guaranteed minimum pension” has the meaning assigned to it in Article 28 of the Pensions Order;

“Health and Social Services Board” means a Board established under the Order;

“health service scheme” means a superannuation scheme provided in regulations for the time being in force under section 10 of the Superannuation Act 1972 in relation to England and Wales and to Scotland, section 54 of the National Health Service (Isle of Man) Act 1948 (an Act of Tynwald), or any other superannuation scheme approved for this purpose by the Department;

“judicially separated” means judicially separated in circumstances in which the husband is not required by the order of any competent court to contribute to the support of his wife, and any such reference and any similar reference to judicial separation includes a reference to separation by an order made under the Summary Jurisdiction (Separation and Maintenance) Act (Northern Ireland) 1945(b), having by virtue of section 3 of that Act the effect of a decree of judicial separation on the ground of cruelty;

“local Act authority” and “local Act scheme” have the same meanings respectively as in the Act of 1937;

“local Act contributor” has the same meaning as in the Act of 1937, and includes a person who, although not in the employment of a local Act authority, was entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme;

“local authority” means a district council or a new town commission;

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

“modification provision” means, in relation to any pension scheme, any provision the effect of which is that pensions under that scheme are to be reduced in connection with the operation of the provisions of the Act of 1966, the Great Britain Acts or the Isle of Man Act, relating to the payment of graduated retirement benefit;

(a) The relevant amending instruments are the Social Security (Miscellaneous Provisions) (Northern Ireland) Order 1977 (S.I. 1977/610 (N.I. 11)) and the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))

(b) 1945 c. 14 (N.I.)

- “national service”, in relation to any person, means service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(a), and includes any period immediately following the termination thereof during which the person, with the consent of the authority or person by whom he was employed before undertaking such service, continues in similar service;
- “non-participating employment” has the meaning assigned to it by section 55 of the Act of 1966 or the corresponding provision of the Great Britain Acts or the Isle of Man Act, as the case may be;
- “officer”, (subject as provided in regulation 2(2) and in regulation 7(3)), has the meaning assigned to it by regulation 4(1);
- “ophthalmic medical practitioner” means a medical practitioner providing general ophthalmic services under the Order;
- “optants scheme” means a superannuation scheme (whether or not embodied in any enactment, rules or regulations) which describes the superannuation benefits to which an officer is entitled by reason of his having elected, pursuant to regulation 40 or regulation 44 or the corresponding provisions of the previous regulations to retain rights corresponding with those which he previously enjoyed under such a scheme, but the expression does not include any scheme comprised in the Federated Superannuation System for Universities, or the Federated Superannuation Scheme for Nurses and Hospital Officers;
- “participating employment”, in relation to any period which is reckonable as service for the purposes of these regulations, means any employment in which a person was required to pay graduated contributions or would have been required to pay such contributions if the amount paid in any income tax week on account of his remuneration, or which would have been paid but for any suspension of remuneration due to leave of absence, exceeded the amount first mentioned in section 4(1) of the Act of 1966, or the corresponding provision of the Great Britain Acts or the Isle of Man Act, as the case may be;
- “payment in lieu of contributions” means a payment in lieu of contributions under the Act of 1959, the Act of 1966, the Great Britain Acts or the Isle of Man Act;
- “pension” means a pension payable under regulation 7;
- “pensionable age” has the meaning assigned to it in section 27 of the Social Security (Northern Ireland) Act 1975(b);
- “practitioner” means a medical or dental practitioner on the list of a Health and Social Services Board or an assistant practitioner, but does not include any practitioner who is paid by an employing authority wholly by way of salary;
- “quarter” means a period of 3 months ending on the last day of March, June, September or December, as the case may be;
- “relevant provisions” in relation to a person to whom regulation 40 applies means the provisions of the enactment or scheme to which his rights and liabilities, as extended by these regulations, correspond;
- “remuneration”, except as provided in regulation 2(7), 62, 70 and 72, means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment but does not include payments for overtime, payments in respect of a temporary additional

(a) 1951 c. 65

(b) 1975 c. 15

session, or any allowances paid to him to cover the cost of providing office or laboratory accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment:

Provided that where a transferred officer was immediately before transfer paying superannuation contributions on remuneration calculated otherwise than under these regulations, the Department may, subject to such conditions as it may impose, agree that such officer's remuneration for the purposes of these regulations shall be calculated on the basis applicable to him immediately before transfer;

"retiring allowance" means a retiring allowance payable under regulation 7;

"senior joint appointee" means a consultant who holds a joint appointment both with an employing authority and The Queen's University of Belfast and who was appointed to his post jointly by an employing authority and the Board of Curators of the said University;

"service", in relation to an officer of an employing authority, means continuous employment under that authority as an officer, after attaining the age of 18 years, and any other employment or any war service or national service which by or in pursuance of these regulations is reckonable as service in relation to his employment as such an officer, but does not include—

(a) any period of employment as an officer mentioned in regulation 6(2) or in respect of which the Department has paid the contributions authorised or required by any superannuation scheme referred to in regulation 44; or

(b) in the case of an officer who has entered employment after having become entitled to superannuation benefits under these or the previous regulations, other than a return of contributions, employment which was taken into account for the purpose of determining whether he was entitled to those benefits or for the purpose of calculating those benefits; or

(c) any period of employment in respect of a temporary additional session;

"specialist" means a Consultant, Senior Hospital Medical Officer or Senior Hospital Dental Officer;

"statutory scheme" means a scheme established under Article 3 of the Superannuation (Northern Ireland) Order 1972 or other arrangements for superannuation maintained in pursuance of regulations made, or having effect as if made, under Articles 9 and 11 of that Order or section 25 of the Police Act (Northern Ireland) 1970(a) or a Fireman's Pension Scheme made under section 17 of the Fire Services Act (Northern Ireland) 1969(b);

"teaching service" means reckonable service as defined in the Teachers Superannuation Regulations (Northern Ireland) 1977(c);

"temporary additional session" means a session equivalent to an extra notional half-day which a specialist or an officer appointed to a post in the grade of associate specialist has, in exceptional circumstances, undertaken to work which does not form part of his normal contractual duties;

"the Agency" has the meaning assigned to it by Article 26(1) of the Health and Personal Social Services (Northern Ireland) Order 1972(d);

"the Authority" means the former Northern Ireland Hospitals Authority;

"the Staffs Council" has the meaning assigned to it by Article 28(1) of the Health and Personal Social Services (Northern Ireland) Order 1972;

(a) 1970 c. 9 (N.I.)

(b) 1969 c. 13 (N.I.)

(c) S.R. 1977 No. 260

(d) S.I. 1972/1265 (N.I. 14)

“trainee practitioner” means a person who is being trained in general practice as a trainee general practitioner under arrangements made by the Department;

“transferred officer” means, subject to regulation 2(4), a person who became an officer on transfer under the Act to the employment of an employing authority, or who became an officer in consequence of the acquisition of premises under section 74 of the Act of 1971 or who became an officer on transfer under Article 77 of the Order;

“war service” means war service within the meaning of the Local Government Staffs (War Service) Act (Northern Ireland) 1939(a), or service in any of the naval, military or air forces of the Crown, or employment for war purposes, within the meaning of the Superannuation Schemes (War Service) Act (Northern Ireland) 1941(b);

“widow’s pension” means a widow’s pension payable under regulation 12; and

“widower’s pension” means a widower’s pension payable under regulation 15.

PART II

PROVISIONS RELATING TO OFFICERS EMPLOYED BY EMPLOYING AUTHORITIES AND OTHER OFFICERS ENGAGED IN HEALTH AND PERSONAL SOCIAL SERVICES

Application

4.—(1) Subject to regulation 7(3) this Part shall apply to the following officers of an employing authority who have attained the age of 18 years—

- (a) every whole-time officer whose duties are wholly or mainly administrative, professional or clerical;
- (b) any other whole-time officer who entered the employment of an employing authority within 12 months of leaving a previous employment referred to in regulation 18(1) or who has given notice in accordance with regulation 18(3)(a);
- (c) any other whole-time officer who was transferred under the Act or entered employment of an employing authority in consequence of the acquisition of premises under section 74 of the Act of 1971, and immediately before either of those events had reasonable expectations of superannuation benefits on retirement and since either of those events has remained an officer without a continuous break of 12 months or more other than a period to which regulation 19(2) applies;
- (d) any other whole-time officer who at any time since attaining the age of 18 years has been in the employment of that or any other employing authority as such whole-time officer for a continuous period of 2 years or for an aggregate period of 2 years without having had before the expiration of that aggregate period a break of more than one month at any one time;
- (e) any part-time officer who is employed as a medical officer or dental officer other than one graded as a consultant who has been appointed as a senior joint appointee after 1st April 1981 and who, as a consequence, will be covered for superannuation purposes by the Universities Superannuation Scheme or a senior joint appointee appointed before the said 1st April who has elected to be so covered;
- (f) any other part-time officer who satisfies the requirements of Schedule 6;

(a) 1939 c. 27 (N.I.)

(b) 1941 c. 6 (N.I.)

- (g) any officer paid by a Health and Social Services Board wholly by way of salary who would be a practitioner if he were not so paid; and
- (h) any trainee practitioner, who for the purposes of this Part shall be treated as being a whole-time officer in the employment of a Health and Social Services Board:

Provided that—

- (i) for the purposes of sub-paragraph (d), account shall be taken of the employment of a transferred officer which he held at the time of transfer, and of any other employment before transfer in which, had he continued to hold it, he would have been transferred as if such employment had been employment under an employing authority;
- (ii) where, on the termination of the employment of an officer of an employing authority, a payment is made in lieu of leave not taken by the officer, his employment as an officer in the employment of that authority shall for the purposes of these regulations be deemed to continue for a period equal to the period of leave in respect of which the payment is made, and such payment shall be deemed to be his remuneration for that period;
- (iii) for the purposes of these regulations, a whole-time officer of an employing authority, other than a practitioner, shall not in addition be a part-time officer by virtue of sub-paragraph (e) or (f) and shall not be a whole-time officer in respect of any other concurrent whole-time employment;
- (iv) in the case of a person who became a transferred officer on or after 1st October 1973 sub-paragraph (e) shall not apply to the employment in which he was transferred unless he makes an election in writing to his employing authority that the said sub-paragraph shall apply to him:

and the term "officer" shall be construed accordingly.

(2) Notwithstanding paragraph (1), this Part shall not apply to any officer of an employing authority to whom there became or becomes payable a pension under these or the previous regulations or an annual sum under regulations made under the Superannuation (Northern Ireland) Order 1973(a), if that pension or sum is not liable to be reduced or suspended in consequence of his employment under that authority:

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

(3) On attaining the age of 70 years an officer shall, for the purposes of these regulations, be treated as having ceased to be an officer.

Participation in superannuation benefits

5. Every officer shall be entitled to participate in the superannuation benefits provided by these regulations, subject to and in accordance with the terms and conditions thereof.

Contributions

6.—(1) For the purpose of defraying the cost of the superannuation benefits provided by these regulations, there shall, subject to the provisions of these regulations, be paid in respect of every officer, not being an officer specified in paragraph (2), in relation to his employment by an employing authority, the following contributions—

(a) S.I. 1973/962 (N.I. 13)

- (a) an amount to be paid by the officer equal to 5 per cent of his remuneration for the time being if his employment is by way of manual labour and 6 per cent in any other case; and
- (b) an amount to be paid by the employing authority at such rate as the Department, on the advice of the Government Actuary and with the consent of the Department of Finance and Personnel, may from time to time specify.

(2) The reference in paragraph (1), in the definition of "service" contained in regulation 3 and in regulation 33(1) to an officer mentioned in this paragraph is a reference to an officer who—

- (a) being a mental health officer or a female who is a nurse, physiotherapist, midwife or health visitor, has attained the age of 65 years; or
- (b) has completed 45 years' contributing service or 45 years' contributing and non-contributing service, reckoning the non-contributing service at half its length, and has attained—
 - (i) in the case of a mental health officer or a female who is a nurse, physiotherapist, midwife or health visitor, an age of not less than 60 years; or
 - (ii) in any other case an age of not less than 65 years.

(3) An officer who is on leave of absence from duty with reduced remuneration or without remuneration shall make contributions under this regulation calculated by reference to the remuneration on which he was making contributions immediately before he went on leave of absence, and, notwithstanding the provisions of any enactment or scheme, contributions by and in respect of him shall not be made during his absence, except in accordance with the provisions of this paragraph, for the purpose of his participation in superannuation benefits:

Provided that where the absence from duty is by reason of illness or injury the provisions of this paragraph shall not apply unless the officer's remuneration is reduced solely by reason of his having become entitled to benefit under the Social Security (Northern Ireland) Act 1975.

(4) The employing authority may deduct from the remuneration payable to an officer the contributions payable by him and, in so far as deductions are not so made, they may recover any such contributions as a simple contract debt in any court of competent jurisdiction.

(5) The employing authority's contributions, and the officer's contributions after they have been obtained from him by the employing authority, shall be paid by the authority to the Department.

(6) Subject to the provisions of regulation 63, but notwithstanding any other provisions of these regulations, a person who after leaving employment under an employing authority became engaged in national service shall, as a condition of becoming entitled to have reckoned any of that service for the purposes of these regulations, make the like contributions (if any) under this regulation as he would have been liable to make if, during the period of his national service, he had continued to follow that employment and to have been entitled to the remuneration thereof, and the employing authority shall make the like contributions in respect of him as they would have been liable to make if he had so continued to follow his employment as aforesaid.

Officer's pension and retiring allowance

7.—(1) On ceasing to be an officer, a person shall be entitled to receive from the Department—

- (a) an annual pension if—
 - (i) he has completed 5 years' service and is permanently incapable of

discharging efficiently the duties of his employment by reason of physical or mental infirmity; or

- (ii) he has attained the age of 60 years; or
 - (iii) there has been repaid to the Department a transfer payment which was made under regulation 74(1) or the corresponding provision of the previous regulations to the superannuation scheme of a Community institution in respect of that person; or
 - (iv) he has completed 5 years' service or he is a person to whom regulation 34(4) or 34(5)(b) applies, and in any such case he has not, within 12 months and without first having become entitled to receive payment of such annual pension, again become an officer; or
 - (v) he has completed 5 years' service and the conditions prescribed in paragraph (4) are applicable in his case; or
 - (vi) he has attained the age of 50 years and completed 5 years' service and the conditions prescribed in paragraph (7) are applicable in his case; and
- (b) a lump sum retiring allowance if he satisfies the requirements of sub-paragraph (a):

Provided that—

- (i) a person who satisfies the requirements of sub-paragraphs (a)(iii), (iv) or (v) shall not become entitled to receive payment of such benefit until he also satisfies the requirements of paragraph (2);
 - (ii) for the purposes of this regulation, an officer who satisfies the requirements of sub-paragraph (a)(v) shall be deemed to have ceased to be an officer on the date he suffers a reduction in remuneration in the circumstances mentioned in paragraph (4); and
 - (iii) for the purpose of determining entitlement to a pension under sub-paragraph (a)(i), (ii) or (vi) a person may be treated as having ceased to be an officer in respect of one of his employments which has terminated although he continues to be an officer in respect of one or more employments which were concurrently held with that employment.
- (2) A person who satisfies the requirements of sub-paragraphs (a)(iii), (iv) or (v) of paragraph (1) shall satisfy the requirements of this paragraph—
- (a) if, not then being an officer, he attains the age of 60 years or, where the Department certifies that the officer's retirement is by reason of redundancy, the earliest age at which the officer would have been entitled to receive a pension under paragraph (1)(a)(ii); or
 - (b) if he is an officer when he attains the age of 60 years, on ceasing thereafter to be an officer; or
 - (c) if he satisfies the Department that he is permanently incapable by reason of physical or mental infirmity of engaging in regular employment; or
 - (d) on subsequently becoming entitled to receive some other benefit under paragraph (1):

Provided that—

- (i) subject to proviso (iii), service in respect of which contributions have been returned shall not be reckonable in the calculation of a pension or retiring allowance;
- (ii) in the case of a person to whom regulation 40 applies, for the reference in sub-paragraphs (a) and (b) to the age of 60 years there shall be substituted a reference to the age of 60 years or such later age at which he would have become entitled to receive a pension under these regulations on ceasing to be such an officer; and

- (iii) where a person has become entitled to benefits by virtue of paragraph (1)(a)(iv) in respect of service which includes a period of contributing service to which regulation 31(1)(a) applies, then on becoming entitled to receive payment of any part of those benefits he shall also become entitled to receive payment of the benefits in respect of such period of contributing service.

(3) In regulation 8 (except in paragraph (6) (a)) and, so far as may be necessary for the purpose of calculating a benefit payable under these regulations to or in respect of a person to whom paragraph (2) applies, elsewhere in these regulations, the expression "officer" shall include a person to whom the said paragraph (2) applies.

(4) For the purposes of paragraph (1)(a)(v) the prescribed conditions are—

- (a) that the officer suffers a reduction in remuneration either on being transferred to other employment under any employing authority, or on taking up such other employment in circumstances that the Department has approved, or may approve, for the purposes of this paragraph; or
- (b) that following a change in the nature of the duties performed the officer suffers a reduction in remuneration which is not attributable to his own act while continuing in the same employment,

and that he gives notice in writing to the employing authority within one month of the reduction, or such longer period as the Department may in any particular case allow, that he wishes to be entitled to benefits under paragraph (1)(a)(v).

(5) Notwithstanding anything contained in regulation 40, an officer to whom that regulation applies or a mental health officer —

- (a) on ceasing to be an officer in the circumstances mentioned in paragraph (1)(a)(vi) shall be entitled to receive the benefits to which he would have been entitled on reaching the age and completing the service prescribed by the relevant provisions, in respect of the service reckonable by him immediately before he so ceased to be such an officer; or
- (b) who on ceasing to be such an officer has completed 5 years' service or is a person to whom regulation 34(4) applies and has not again become such an officer within 12 months and has not become entitled to receive such benefits, shall be entitled to receive either—
- (i) on satisfying the requirements of paragraph (2), the benefits to which he is entitled in respect of the service reckonable by him immediately before he ceased to be such an officer, or
- (ii) on attaining the age of 65 years in the case of a man or 60 years in the case of a woman or, in either case, if he or she were an officer on attaining that age on ceasing thereafter to be an officer, the benefits mentioned in paragraph 12(2) of Schedule 10 calculated as if the employment had ceased on attaining that age:

Provided that in the case of an officer subject to superannuation provisions corresponding with those of a mental health officer, the provisions of regulation 8(4) shall apply to the calculation of a benefit under this sub-paragraph as though his employment were employment as a mental health officer.

(6) Until he satisfies the requirements of paragraph (2) a person who satisfies the requirements of paragraph (1)(a)(iii), (iv) or (v) or paragraph (5) shall be regarded for the purposes of regulations 4(2) and 37 as being in receipt of a pension under these regulations which is liable to be reduced or suspended in consequence of re-employment.

(7) For the purposes of paragraph (1)(a)(vi) the prescribed conditions are that the Department has certified that the officer's retirement is by reason of redundancy or is in the interests of the efficiency of the service in which he is employed.

Rates of pension and retiring allowance

8.—(1) The pension to be paid to a person whose service does not include service as a practitioner shall, subject to the provisions of these regulations, be a sum equal to 1/80th of his average remuneration in respect of each year of his contributing service.

(2) The pension to be paid to a person whose service includes service as a practitioner shall, subject to the provisions of these regulations,

- (a) in respect of the service otherwise than as a practitioner, be at the rate specified in paragraph (1), and
- (b) in respect of the service as a practitioner, be at the rate specified in regulation 64(2).

(3) Subject to the provisions of these regulations, the retiring allowance to be paid to a person shall be a sum equal to three times the annual amount of his pension as calculated in accordance with this regulation or regulation 64, as the case may be:

Provided that—

(a) where a person—

- (i) is a married man in respect of whose service a widow's pension may become payable under these regulations, or
- (ii) became a widower or was divorced or judicially separated from his wife on or after 25th March 1972 in the circumstances specified in paragraph (6), or
- (iii) has made a nomination under regulation 15,

the amount of the retiring allowance shall be a sum equal to the aggregate of the following amounts, namely, the annual amount of his pension as calculated under this regulation or regulation 64 as the case may be in respect of his contributing service before 25th March 1972 (other than service in respect of which payment under regulation 24(1) or 22C(1) of the 1962 regulations (a) has been completed or deemed to have been completed) and three times the annual amount of his pension as so calculated in respect of the remainder of his contributing service;

(b) where proviso (a) does not apply to an officer and he became a widower or was divorced or judicially separated from his wife before 25th March 1972 in the circumstances specified in paragraph (6), the amount of the retiring allowance shall be a sum equal to the aggregate of the following amounts, namely, the annual amount of his pension as calculated under this regulation or regulation 64 as the case may be in respect of his contributing service up to and including the date of his wife's death or the divorce or judicial separation (other than service in respect of which payment under regulation 24(1) or 22C(1) of the 1962 regulations has been completed or deemed to have been completed) and an amount equal to three times the annual amount of his pension as so calculated in respect of the remainder of his contributing service.

(4) Notwithstanding the foregoing provisions of this regulation, the pension and retiring allowance of a mental health officer who became entitled to benefits under regulation 7(1)(a)(iii), (iv) or (v) or 7(5)(b)(i) shall not be less than the pension and retiring allowance calculated according to the formula

$$\frac{A}{B} \times C$$

where—

“A” is the period of employment reckonable by him as contributing service at the date of his ceasing to be an officer;

“B” is the period of employment that would have been reckonable by him as service had he continued in his employment as a mental health officer until the age

(a) The relevant amending regulations are: S.R. 1976 No. 46 and 1978 No. 301

of 55 years, together with any period in respect of which he receives a return of contributions; and

“C” is the pension or retiring allowance to which he would be entitled; apart from this paragraph, had his contributing service been that which would have been reckonable had he continued in his employment as a mental health officer until the age of 55 years, together with any contributing service in respect of which he receives a return of contributions and including any service which he is able to reckon by virtue of regulation 21(5) as though that service were contributing service.

(5) Where the retiring allowance paid to a married male officer has been calculated on the basis that a widow's pension may become payable under these regulations in respect of his service and, by reason of the operation of proviso (iii) to regulation 12(1), his wife will not, on his death, become entitled to a widow's pension, there shall be paid to the officer a sum equal to two-thirds of the difference between the amount of the retiring allowance paid to him and the amount of the retiring allowance which would have been paid to him had he not been a person in respect of whose service a widow's pension might become payable.

(6) The circumstances referred to in provisos (a)(ii) and (b) to paragraph (3) are that he is an officer (other than an officer who married in such circumstances that his wife could not become entitled to a widow's pension by reason of proviso (iii) or proviso (iv) to regulation 12(1) or the corresponding provisions of the previous regulations) whose wife died or was divorced or judicially separated from him—

- (a) on or after the date on which he first became an officer within the meaning of these regulations or the previous regulations; or
- (b) while he was subject to a superannuation scheme the service reckonable in which is reckonable by him for the purposes of these regulations and which provided a widow's pension as one of its benefits; or
- (c) during the period between his leaving employment in which he was subject to any such scheme as is mentioned in sub-paragraph (b) and his entry into employment in which he became an officer as aforesaid.

Additional benefits for certain officers

9.—(1) Any benefit under these regulations payable to or in respect of an officer whose service includes service as a medical or dental officer during which he was entitled under his terms of service to fees in respect of domiciliary consultations, shall be supplemented by such additional payment (if any) as may be ascertained in accordance with paragraph (2).

(2) The supplementary payment referred to in paragraph (1) shall be calculated in accordance with the method prescribed by these regulations for the benefit which it supplements as if such fees had been his remuneration and any service in respect of employment to which regulation 32(7) applies and any service reckonable by virtue of regulation 22 or 22A of the 1962 regulations(a) were disregarded:

Provided that—

- (i) where such benefit is calculated by reference to average remuneration, such fees shall be aggregated with his remuneration in order to determine, for the purposes of proviso (a) to regulation 33(1), whether his remuneration was higher in any year preceding the final year;
- (ii) proviso (f) to regulation 33(1) shall not apply to such fees.

Allocation of part of pension to spouse or dependant

10.—(1) An officer who becomes entitled to a pension may thereupon notify his desire, subject to and in accordance with the provisions of Schedule I, to surrender part of the pension in consideration of the grant of a pension to the spouse or any

(a) The relevant amending regulations are: S.R. 1974 No. 327 and 1978 No. 301

dependant of the officer on his death of such value as, according to tables prepared from time to time by the Government Actuary, is actuarially equivalent at the date on which he ceased to be an officer to the value of that part of the pension which is surrendered.

(2) If an officer not having attained—

(a) in the case of a mental health officer, or of a female who is a nurse, physiotherapist, midwife or health visitor, the age of 60 years; or

(b) in any other case, the age of 65 years,

would, if he ceased to be an officer, be entitled to a pension, and he has completed 40 years' contributing service or a total of 40 years' contributing service and non-contributing service, the non-contributing service being reckoned at half its length, or if an officer, having attained the appropriate age, would, if he ceased to be an officer, be entitled to a pension, he may, at any time before ceasing to be an officer, notify his desire, subject to and in accordance with the provisions of Schedule 1, to surrender part of the pension to which he may become entitled, in consideration of the grant of a pension to his spouse or any dependant of the person aforesaid on his death, of such value as, according to tables to be prepared from time to time by the Government Actuary, will be actuarially equivalent at the date on which he ceases to be an officer, to the value of that part of the pension which is surrendered; and if he dies before having become entitled to the pension but after having so notified his desire to surrender a part of the pension, he shall be deemed to have become entitled to the pension to which he would have become entitled had he retired on the day of his death.

(3) A person who has become entitled to benefits under regulation 7(1)(a)(iii), (iv) or (v) shall not be treated for the purposes of this regulation as having become entitled to those benefits until he becomes entitled to receive payment thereof.

Death gratuity

11.—(1) In the event of the death of—

(a) an officer;

(b) a person who had ceased to be an officer within 12 months before his death and had not received a return of contributions or become entitled to any other benefit, including a transfer payment, under these regulations;

(c) a person who had become entitled to a pension under regulation 7(i)(a)(iii) or 7(1)(a)(iv) but had not become entitled to receive payment of that pension; or

(d) a person in receipt of a pension under these regulations,

his widow if they were not judicially separated at the time of his death, or otherwise his personal representatives, shall be entitled to receive from the Department a death gratuity calculated, subject to paragraph (6), in accordance with paragraph (2).

(2) Subject to paragraph (3), the amount of the death gratuity shall be—

(a) in respect of the death of an officer, a sum equal to whichever is the greatest of the following—

(i) his average remuneration, or

(ii) an amount equal to three times the annual amount of the pension which would have been payable to the officer had he become entitled to a pension under regulation 7(1)(a)(i) on the day of his death (any reduction under regulation 51 being disregarded), or

(iii) the amount of his contributions, together with compound interest thereon;

(b) in respect of the death of a person after ceasing to be an officer as mentioned in paragraph (1)(b) or (c), as the case may be, a sum equal to whichever is the greater of the following—

- (i) an amount equal to three times the annual amount of a pension as calculated under regulation 8 or 64 based on his contributing service reckonable on last ceasing to be an officer, or
- (ii) the amount of his contributions, together with compound interest thereon,
except that if a widow's pension becomes payable under these regulations, the death gratuity shall be a sum equal to a retiring allowance calculated under the provisions of proviso (a) to regulation 8(3) and regulation 8(4) based on his contributing service reckonable on last ceasing to be an officer;
- (c) in respect of the death of a person in receipt of a pension as mentioned in paragraph (1)(d), a sum equal to whichever is the greatest of the following—
 - (i) an amount equal to three times the annual amount of his pension under these regulations (any reduction under regulation 51 being disregarded) less a sum equal to the aggregate amount of pension and retiring allowance paid to him, or
 - (ii) the amount of his contributions, together with compound interest thereon, less a sum equal to the aggregate amount of pension and retiring allowance paid to him, or
 - (iii) whichever is the lesser of the following—
 - (a) his average remuneration, less a sum equal to the aggregate amount of pension and retiring allowance paid to him, or
 - (b) an amount equal to five times the annual amount of his pension under these regulations (any reduction under regulation 51 being disregarded) less a sum equal to the aggregate amount of pension paid to him:

Provided that where a person surrendered part of his pension, the amount of the death gratuity specified in sub-paragraph (c) shall be reduced by any sum which would have been paid to him but for the surrender.

(3) Subject to the provisions of regulation 24(11) or 22C of the 1962 regulations, where a widow's pension is payable under these regulations—

- (a) the amount of the death gratuity specified in paragraph (2)(a) shall be reduced by an amount equal to twice the annual amount of the pension which would have been payable to the officer in respect of his contributing service before 25th March 1972 had he become entitled to a pension under these regulations on the day of his death (any reduction under regulation 51 being disregarded);
- (b) the amount of the death gratuity specified in paragraph (2)(c) (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 his contributing service before 25th March 1972 (any reduction under regulation 51 being disregarded).

(4) Where a widower's pension is payable under these regulations, the amount of the death gratuity payable under this regulation shall be calculated as if any reference in this regulation to a widow or a widow's pension included a reference to a widower or widower's pension.

(5) In calculating a person's average remuneration for the purposes of this regulation, the remuneration in respect of any employment which reckons as service as a practitioner shall be deemed to have been at the rate of the annual average of the total uprated remuneration calculated in accordance with regulation 64(2).

(6) In the case of the death of a person who became entitled to a pension on or before 25th March 1972 the death gratuity shall be calculated in accordance with the provisions of the previous regulations as they applied at the date on which he became entitled to such pension.

Widow's pension

12.—(1) The widow of a person who at the date of his death was—

- (a) entitled to a pension under these regulations, or the previous regulations; or
- (b) employed in employment in which he was an officer and had completed not less than 5 years' service, or had attained the age of 60 years,

shall be entitled to receive from the Department an annual widow's pension:

Provided that a widow shall be entitled to receive a widow's pension in excess of the amount specified in proviso (v) to paragraph (4)—

- (i) if the marriage took place after her late husband ceased to be an officer; or
- (ii) if at the time at which her late husband became entitled to a pension under these regulations or the previous regulations or at the date of his death, she and her late husband were judicially separated; or
- (iii) if her late husband had become entitled to a pension before 1st April 1967 and at the time of his death she was herself entitled to a pension under these regulations or the previous regulations otherwise than as a practitioner, or would have become so entitled immediately on ceasing to be an officer; or
- (iv) if the marriage took place before 9th August 1975 and on her husband's death a widow's pension would have been precluded by proviso (ii) to regulation 13(1) of the original 1962 regulations and on her husband's retirement, or on his death before retirement, she elects to forego that widow's pension in order that there may become payable an unreduced retiring allowance or death gratuity.

(2) Where a widow is entitled to receive a widow's pension of the amount specified in proviso (v) to paragraph (4) and her marriage with such a person as is mentioned in paragraph (1) took place after her late husband had become entitled to receive payment of a pension under these or the previous regulations the widow shall also be entitled to a widow's pension under paragraph (5) at the rate specified in paragraph (5)(a) if the date of her late husband's death occurs on or after 11th January 1983.

(3) The widow of such a person as is mentioned in regulation 11(1)(b) shall be entitled to the like benefit (if any) by way of widow's pension as would have been payable under these regulations (except paragraph (5)) or the previous regulations if her husband had died immediately before ceasing to be an officer.

(4) Subject to the provisions of paragraph (5), the amount of the widow's pension shall be as follows—

- (a) in the case of the widow of an officer, one-half of the pension which would have been payable to the officer had he become entitled, on the date of his death, to a pension under regulation 7(1)(a)(ii) or, if he had completed not less than 5 years' service, to a pension under regulation 7(1)(a)(i);
- (b) in the case of the widow of a person who was entitled to a pension, one-half of such pension:

Provided that—

- (i) if any such pension as is mentioned in sub-paragraph (a) would have been reduced under regulation 51, no account shall be taken of the reduction, and any such pension as is mentioned in sub-paragraph (b) shall be deemed to be the pension that would have been payable but for any reduction under that regulation, or any corresponding provision of the previous regulations;
- (ii) if such officer as is mentioned in sub-paragraph (a) died before 25th March 1972 then, unless his widow had elected to receive a widow's

pension at a higher rate than one-third, the reference in sub-paragraph (a) to one-half shall be a reference to one-third;

- (iii) if such person as is mentioned in sub-paragraph (b) became entitled to the pension mentioned therein on or before 25th March 1972 then, unless on retirement he elected not to receive a retiring allowance, the reference in sub-paragraph (b) shall be a reference to one-third;
- (iv) where an officer has received payment of a retiring allowance, a widow's pension shall not be payable in respect of any part of his service before 25th March 1972 in respect of which his retiring allowance was calculated at the rate of three times the annual amount of his pension unless either—
 - (a) the Department has accepted repayment to such extent and in such manner as it considers appropriate in order to recover the difference between the retiring allowance so paid and that which would have been paid on the basis that a widow's pension might become payable, or
 - (b) a corresponding adjustment falls to be made under the proviso to regulation 38(2);
- (v) the amount of a widow's pension shall, notwithstanding regulation 25, be not less than the following amounts in respect of her husband's contributing service on or after 6th April 1978, namely—
 - (a) in respect of service otherwise than as a practitioner, an amount equal to 1/160th of his average remuneration in respect of each year of service, and
 - (b) in respect of service as a practitioner, an amount equal to 0.7 per cent of his total uprated remuneration in respect of such service,
 so, however, that any contributing service added under regulation 31(3) or 68(2) shall be disregarded;
- (vi) during the period that a pension of limited duration is payable under regulation 14 a widow's pension shall not be payable at any of the rates specified in this paragraph.

(5) The widow's pension payable for the first three months following the date of the death of her late husband or, if the date of her late husband's death occurs on or after 11th January 1983 and she has one or more than one child dependent on her at that date, for the first six months following that date, shall be, if, at the date of his death—

- (a) paragraph (1)(a) applied and he was an officer on or after 1st October 1972, at the rate of his pension payable on that date without having regard to any reduction or suspension by reason of the operation of regulation 36;
- (b) paragraph (1)(a) applied and he was an officer, the aggregate of the rate of his remuneration and the rate of his pension payable on that date having regard to any reduction or suspension by reason of the operation of regulation 36;
- (c) paragraph (1)(b) applied, and he was not a person to whom paragraph (1)(a) also applied, at the rate of his remuneration on that date:

Provided that—

- (i) a widow's pension shall not be payable at any of the rates mentioned in paragraph (4) or in the case of a person to whom regulation 40 applied, a relevant provision, whilst a widow's pension is payable at any of the rates mentioned in this paragraph;
- (ii) no account shall be taken of any reduction or suspension of the remuneration of an officer who was on leave of absence from duty at the time of his death;

- (iii) for the purposes of this paragraph the remuneration of a practitioner shall be taken as the rate of his remuneration during the quarter immediately before his death or, if his remuneration during that quarter was reduced or suspended because of his illness or injury or that of any partner of his, at the rate set out in regulation 63(2);
 - (iv) this paragraph shall not apply to any case in which a greater amount would be payable under these regulations apart from this paragraph;
 - (v) a widow's pension shall not be payable at any of the rates mentioned in this paragraph if the widow has become entitled to receive a pension of limited duration under regulation 14.
- (6) During the period that a widow's pension is payable at any of the rates specified in paragraph (5) a child's allowance shall not be payable under regulation 13 in respect of any child dependent upon the widow.
- (7) A widow's pension shall not be payable to a widow—
- (a) if she re-marries, in respect of any period after her re-marriage, so, however, that in the event of the termination of her re-marriage, the Department may restore her widow's pension in whole or in part if it is satisfied that she would otherwise suffer hardship; if it does so it may take account of any deficiency payment already made under paragraph (8); or
 - (b) in respect of any period during which she and a man to whom she is not married are living together as man and wife.
- (8) Where a widow's pension becomes payable and the death gratuity is thereby less than it would have been had no widow's pension been payable, and on the subsequent death or re-marriage of the widow the amount paid by way of widow's pension is less than the difference between the amount of the death gratuity and the amount that the death gratuity would have been had no widow's pension become payable, there shall be paid to or among such persons as the Department may determine an amount equal to the difference.
- (9) For the purposes of this regulation "child" has the meaning given by regulation 13(4)(a).

Child's allowance

13.—(1) Subject to and in accordance with Schedule 5, an allowance (in these regulations referred to as "a child's allowance") shall be payable to or for the benefit of any child to whom this regulation applies.

(2) Subject to paragraph (3), this regulation applies to any child who—

- (a) is a child of a person who dies in the circumstances mentioned in regulation 11(1)(a) or (b), or who dies having become entitled to a pension after 10th February 1975, and
- (b) was dependent on that person and either—
 - (i) has not attained the age of 17 years or, if 17 years of age or over is, to the satisfaction of the Department, continuing to receive full-time instruction at an educational establishment or undergoing full-time training for a trade, profession or vocation, or is in a break in such instruction or training, or
 - (ii) was at the time of the death of that person and has at all times since then been incapable by reason of permanent ill-health or infirmity of mind or body of earning his own living.

(3) The reference in paragraph (2)(b)(i) to 17 years shall be a reference to 16 years in the case of a child of a person who dies before 11th January 1983 and to whom the provisions of paragraph (2)(a) apply.

(4) For the purposes of this regulation except as provided in paragraph (5)—

(a) “child” includes—

- (i) a step-child, adopted child or illegitimate child, a child who is a brother or sister or the child of a brother or sister of the person mentioned in paragraph (2)(a) or of his spouse and the child of a child of that person, but does not include any child adopted, or who became a step-child, after the date when that person last ceased to be an officer, or any child born more than a year after that date, and
 - (ii) in any particular case if the Department so agrees, a child whom that person immediately before last ceasing to be an officer had intended to adopt or who had then been dependent on that person for at least 2 years or half the child’s life, whichever is the lesser;
- (b) “eligible child” means a child to whom this regulation applies and “parent” shall be construed accordingly; and
- (c) “brother” includes half-brother and step-brother and “sister” includes half-sister and step-sister.

(5) This regulation shall also apply in the case of the death of a person who became entitled to receive a pension after 1st April 1967 and before 10th February 1975, and where it so applies the following paragraph shall be substituted for paragraph (4)—

“(4) For the purposes of this regulation—

- (a) “child” includes a step-child, adopted child or illegitimate child but does not include any child adopted, or who became a step-child, after the date when the parent in respect of whose death the allowance is payable last ceased to be an officer, or any child born more than a year after that date; and
- (b) “eligible child” means a child to whom this regulation applies and “parent” shall be construed accordingly.”.

Pensions of limited duration for widows and dependent children

14.—(1) The provisions of this regulation shall apply where an officer dies before he has completed 5 years’ service.

(2) A pension of limited duration (referred to in this regulation and regulation 15 as a “limited pension”) shall be payable immediately following the officer’s death to his widow at the rate of his remuneration at the date of his death for the period mentioned in paragraph (5):

Provided that—

- (i) a limited pension shall not be payable to the widow if at the date of her late husband’s death they were judicially separated or if she is not entitled to a widow’s pension by virtue of the provisions of regulation 12(7);
 - (ii) no account shall be taken of any reduction or suspension of the remuneration of an officer who was on leave of absence from duty at the date of his death;
 - (iii) for the purposes of this paragraph the remuneration of a practitioner shall be taken as the rate of his remuneration during the quarter immediately before the date of his death or, if his remuneration during that quarter was reduced or suspended because of his illness or injury or that of any partner of his, at the rate set out in regulation 63(2).
- (3) For the purposes of this regulation—
- (a) “dependent child” means a child of the officer who, at the date of the officer’s death—
- (i) was dependent on the officer, and either

- (ii) subject to paragraph (4), had not attained the age of 17 years, or if he had attained that age was, to the satisfaction of the Department, receiving full-time instruction at an educational establishment or undergoing full-time training for a trade, profession or vocation, or
 - (iii) was incapable by reason of permanent ill-health or infirmity of mind or body of earning his own living;
- (b) "a child" includes—
- (i) a child, step-child, adopted child or illegitimate child, a child who is a brother or sister or the child of a brother or sister of the officer or of his spouse and a child of a child of the officer,
 - (ii) in any particular case if the Department so agrees, a child whom the officer had intended to adopt or who had been dependent on the officer for at least 2 years or half the child's life, whichever is the lesser, and
 - (iii) a child born during the period for which a limited pension would have been payable if that child had been living at the time of the officer's death, and in such case that limited pension shall be payable as if the child had been alive during the period between the officer's death and the child's birth;
- (c) "brother" includes half-brother and step-brother and "sister" includes half-sister and step-sister.
- (4) The reference in paragraph (3)(a)(ii) to 17 years shall be a reference to 16 years in the case of a child of an officer whose death occurs before 11th January 1983.
- (5) The period for which a limited pension is payable shall be—
- (a) 3 months if there is no dependent child dependent upon the officer's widow; or
 - (b) 6 months if the date of death of the officer occurs on or after 11th January 1983 and there is one or more than one dependent child dependent on the officer's widow on that date.

Widower's pension

15. 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 Department nominate her husband to receive benefits under this regulation on the grounds that he is wholly or mainly dependent on her and if the Department is satisfied that the officer's husband is so dependent on her it shall accept the nomination so that on the death of the officer the nominee shall be entitled to receive from the Department an annual widower's pension in accordance with the provisions of regulation 12 or a limited pension in accordance with the provisions of regulation 14, as the case may be.

Power to compound small benefits

16.—(1) Subject to paragraph (2), where the annual sum payable to any person is less than £78, the Department may discharge its liability in respect of that annual sum and in respect of any death gratuity which might otherwise become payable on that person's death by the payment of a lump sum representing the capital value of that annual sum and that death gratuity.

(2) Paragraph (1) shall not apply in relation to a pension unless the person entitled to that pension became entitled to receive payment thereof on or after attaining pensionable age.

(3) A person who has become entitled to benefits under regulation 7(1)(a)(iii), (iv) or (v) shall not be treated for the purposes of this regulation as having become entitled to those benefits until he becomes entitled to receive payment thereof.

Guaranteed minimum pension under the Pensions Order

17.—(1) Subject to paragraph (3), but notwithstanding any other provision of these regulations, where an officer has a guaranteed minimum in relation to a pension provided by virtue of these regulations—

- (a) that pension shall be at a weekly rate of not less than the guaranteed minimum pension from pensionable age, but where he continues in employment as an officer after attaining that age his entitlement to receive payment of such pension shall be postponed until he ceases to be an officer except that he shall become entitled to receive payment of that pension at the guaranteed minimum pension rate 5 years after pensionable age where he has continued until then to be an officer without having become entitled to receive payment of any benefit under these regulations, and
- (b) if he dies and leaves a widow, she shall be entitled to receive payment of a widow's pension the weekly rate of which shall not be less than one-half of that guaranteed minimum pension for any period such as is mentioned in Article 38(6) of the Pensions Order.

(2) Where payment of an officer's guaranteed minimum pension is postponed because he continues in employment after attaining pensionable age, or after that age is reduced or suspended under the provisions of regulation 36, then his guaranteed minimum in relation to a pension provided by virtue of these regulations shall be increased to the extent specified in Article 37(6) of the Pensions Order.

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

- (a) where regulation 36 operates to reduce a pension;
- (b) where the Department has made a direction under regulation 58 in respect of an offence mentioned in paragraph (b) or (c) of that regulation;
- (c) where the Department has discharged its liability by payment under—
 - (i) regulation 16; or
 - (ii) regulation 74 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(a) and the Board of Inland Revenue for the purpose of this regulation.

Reckoning as service of previous periods of employment

18.—(1) Subject to paragraph (6), where a person enters employment as an officer, after leaving a previous employment in which he was an officer or in which he was subject to a health service scheme, the service which was reckonable when he ceased to be employed in that previous employment shall be reckonable in relation to the employment in which he is an officer, if—

- (a) he became an officer within 12 months after leaving that previous employment, and
- (b) within 6 months after entering the employment of an employing authority he repays to that authority an amount equal to any sum paid to him by way of return of contributions on or after his ceasing to hold his previous employment as an officer, together with an amount equal to any income tax which was deducted from his contributions in respect of such payment (not being a deduction under regulation 34(3)), except that, in respect of any person who was an officer on or after 6th April 1978, and notwithstanding this

paragraph, service which on leaving previous employment as an officer was reckonable under regulation 34(5)(a) or (b), together with any associated service to which regulation 31(1)(a) applies, will remain reckonable in relation to his employment as an officer, or

- (c) in his previous employment he was subject to a health service scheme—
 - (i) within 6 months after entering employment as an officer he gives written notice to the Department that he wishes the service which was reckonable on termination of his previous employment to be reckonable as service in relation to his employment as an officer, and
 - (ii) the Department has received a transfer payment in respect of that previous service.

(2) Subject to the provisions of this regulation, and notwithstanding any other provisions of these regulations, these regulations shall apply to a person who has become an employee of an employing authority after leaving employment in which he was or might have become subject to a health service scheme, as though that employment were employment under an employing authority.

(3) Subject to paragraphs (4) and (6), where a person enters employment as an officer after leaving employment in which he was not an officer and in which he was subject to a superannuation scheme, other than a health service scheme, any service which was reckonable in that superannuation scheme for the purpose of determining whether that person was entitled to receive a superannuation benefit 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 6 months after entering employment as an officer he gives written notice to the Department that he wishes the Department to request a transfer payment in respect of him from the body administering such superannuation scheme, and
- (b) that body makes such a transfer payment to the Department.

(4) The service mentioned in paragraph (3) shall be reckonable for all purposes of these regulations, other than for the purpose mentioned in that paragraph, as a period of contributing service calculated in accordance with Part II of Schedule 2, and the contributing service reckonable in respect of any part of the former employment shall bear the same relationship to the service reckonable under the previous scheme in respect of that part as the total contributing service reckonable under this paragraph bears to the total service reckonable under the previous scheme, but for the purpose of these regulations contributing service reckonable under this paragraph shall not be regarded as service before 25th March 1972.

(5) Where two or more persons at the same time enter employment as officers of one or more employing authorities after leaving employments in which they were not officers and in which they were subject to the same superannuation scheme, not being a health service scheme, the Department may, on the advice of the Government Actuary, accept a single transfer payment in respect of those persons in substitution for the several transfer payments in respect of those persons which would otherwise be payable in accordance with paragraph (3); and in any such case the provisions of these regulations shall apply as if that payment comprised a transfer payment in respect of each of the persons in respect of whom it is made of such amount as the Department may determine.

- (6) The Department may—
 - (a) waive payment of any transfer payment payable under paragraph (1) or paragraph (3) and if it does so such payment shall be deemed to have been made for the purposes of this regulation, regulation 59 and Schedule 2;
 - (b) in any particular case extend any time limit mentioned in this regulation;

- (c) decline to accept a transfer payment under paragraph (3) if the amount of a pension calculated by reference to the contributing service which the person would otherwise have been entitled to reckon under paragraph (4) and his annual rate of remuneration on the date he became an officer is less than the amount of guaranteed minimum pension for which the Department would have been liable as a result of its accepting that transfer payment.

Intervals in service due to illness or injury

19.—(1) Notwithstanding anything in these regulations, an officer whose remuneration is suspended owing to leave of absence from duty on account of illness or injury shall be deemed to have ceased his employment as an officer from the date on which his remuneration was so suspended except for the purposes of regulations 4(1) proviso (ii), 7, 10(1), 11(1)(a) and (b), 12(1)(b), 12(4)(a), 13, 14, 15, 44, 45 and 46.

(2) Where a person ceases or is deemed by virtue of paragraph (1) to have ceased his employment as an officer on account of illness or injury, no account shall be taken of any period during which he is incapable of resuming employment as an officer or a period of 2 years, whichever is the less, in determining whether—

- (a) he has entered employment as an officer within any such period as is referred to in regulation 18; or
 (b) for the purposes of regulations 30, 40(1), 44, 45(2), 51(3)(a) and (b) and 51(8), (9) and (11), he has had any such break in employment as is referred to therein;

Provided that—

- (i) the said period of 2 years may be extended to such longer period as the Department may in any particular case allow;
 (ii) in the case of a person mentioned in paragraph (1) who ceases to be employed whilst his remuneration is suspended and he is incapable of resuming his employment, the period during which his remuneration is suspended and any further consecutive period during which he is incapable of resuming employment as an officer shall be aggregated for the purposes of this paragraph; and
 (iii) sub-paragraph (a) shall not apply to any person who is entitled to benefits under regulation 7(1)(a)(iv).

(3) Paragraph (1) shall not apply to an officer who for the time being enjoys under regulation 40 rights corresponding with those which he would have enjoyed if he had remained subject to the superannuation enactment or scheme previously applicable in his case.

Reckoning of service in certain continuing employments

20.—(1) There shall be reckonable for the purpose of calculating the amount of a benefit payable to or in respect of an officer under these regulations, in addition to any period of employment otherwise reckonable under these regulations as service in relation to the employment he has ceased to hold (in this regulation referred to as his "main employment"), any other period of employment which has been reckonable as service under these regulations or the previous regulations and—

- (a) which has terminated before or at the same time as the termination of his main employment;
 (b) is service in respect of which no benefit under these regulations or transfer payment has been paid;
 (c) is not service in respect of which contributions have been returned to the officer and have not been repaid by him; and
 (d) is not service which has been followed by any continuous period of 12 months or longer during no part of which the person was an officer.

(2) Where on giving up his main employment an officer continues in some other employment, any period of service which apart from this paragraph is reckonable in relation to one only of those employments shall be reckonable also in relation to the other employment for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating the amount of any such benefit.

Reckoning of previous employment as qualifying service in certain cases

21.—(1) In the case of—

- (a) a person who was transferred under the Act or the Order to the employment of an employing authority and who thereupon became an officer of that employing authority;
- (b) a person who entered the employment of an employing authority in consequence of the acquisition of premises by the Authority under section 67 of the Act, having been employed solely or mainly at or for the purposes of the said premises immediately prior to their acquisition, and who thereupon became an officer of that employing authority; or
- (c) a person who being a consultant solely or mainly employed immediately prior to the appointed day at or for the purposes of a hospital transferred to the Authority under section 23 of the Act, entered employment on the appointed day as an officer of an employing authority,

there shall be reckonable as service in relation to any such employment as is mentioned in paragraph (2), for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating the amount of any benefit to which he may become entitled, all periods of employment, not otherwise reckonable as service, after he attained the age of 18 years, under any authority or body from which functions were transferred by the Act, the Order, or under an officer of such an authority or body or at or for the purposes of premises which have been transferred to or acquired by the Authority under the Act, and, if he left any such employment as aforesaid in order to undertake war service or, if immediately after leaving that employment he became engaged in national service, and within 6 months after the termination of that service returned to any such employment as aforesaid, there shall also be reckonable as service for the purpose aforesaid the period of that war service or national service.

(2) The employments to which paragraph (1) refers are—

- (a) the employment to which the person was transferred as mentioned in that paragraph or which he entered in consequence of the acquisition of premises by the Authority as aforesaid or, in the case of a person being such a consultant as aforesaid, the employment which he entered on the appointed day; and
- (b) any other employment under an employing authority which he entered—
 - (i) on being so transferred;
 - (ii) on entering as aforesaid the employment of an employing authority in consequence of the acquisition of premises by the Authority; or
 - (iii) which, in the case of a person being such a consultant as aforesaid, he entered on the appointed day,

being in any such case employment in which he thereupon became an officer.

(3) A person who has become an officer by virtue of regulation 4(1)(f) shall be entitled to reckon for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating the amount of such benefit, every period of employment which satisfies all of the following requirements, that is to say that it was a period of employment—

- (a) after he attained the age of 18 years;

- (b) before 6th April 1975 under any body which is or is deemed to be an employing authority under these or the previous regulations or any corresponding English or Scottish regulations;
- (c) for not less than half of such hours in any period as would have constituted whole-time employment in his case;
- (d) which was followed, within not more than 3 months, by other employment to which this paragraph applies or by employment which is reckonable as contributing service; and
- (e) which is not and has not been reckonable as contributing service under these or the previous regulations or any corresponding English or Scottish regulations.

(4) There shall be reckonable as service in relation to an ophthalmic medical practitioner for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating the amount of such benefit, service before 1st April 1974 on the ophthalmic list of a Health and Social Services Board or of the former Northern Ireland General Health Services Board.

(5) Where a person again becomes an officer not more than one month after having ceased to be an officer any period of employment which is reckonable as service on his so ceasing and which does not reckon as contributing service in relation to the employment in which he is an officer shall be reckonable for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating the amount of such benefit.

Purchase of added years of contributing service

22.—(1) Subject to the following provisions of this regulation an officer may, on giving written notice to his employing authority, elect—

- (a) within 12 months of
 - (i) first becoming an officer, or
 - (ii) becoming an officer without being able to reckon as service a previous period of employment as an officer,

to make a payment in accordance with the provisions of paragraph 1 of Schedule 7; or

- (b) 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 paragraph 2 of Schedule 7;

and if he so elects and makes payments in accordance with the provisions of Schedule 7 which apply to him there shall be added to his contributing service a further period of service determined in accordance with this regulation and that Schedule.

(2) Notwithstanding the provisions of paragraph (1) an officer may, if his last birthday or his birthday prior to his last birthday occurred during the period beginning with 1st May 1982 and ending with 31st October 1983, elect on giving written notice to his employing authority on or before 31st October 1983 to make payments under paragraph (1)(b) as if the notice had been received by his employing authority either on the day before his last birthday or the day before his birthday prior to his last birthday.

(3) Where an officer to whom paragraph (2) relates has given notice in accordance with that paragraph he shall on or before the expiration of three months beginning with the date of receipt of such notice by his employing authority make a single payment equal to the total amount of the payments which would have been payable by him if his election had been made on the day before his last birthday or the day before his birthday prior to his last birthday as the case may be and if he does not make such a payment before the expiration of that period his election shall cease to have effect.

(4) An officer may not elect to make payments under this regulation—

- (a) during a period of absence from duty without leave or a period of leave of absence from duty on account of sickness or a period of leave of absence from duty without remuneration or with reduced remuneration, or
- (b) if he has become entitled to receive payment of benefits under regulation 7(1)(a)(ii), (iii) or (iv).

(5) If an officer who has elected under paragraph (1)(a) to make a single payment ceases to be an officer during the period mentioned in paragraph 7(3)(a)(ii) or 7(3)(b)(ii) of Schedule 7 (otherwise than by virtue of regulation 19(1)) his election under paragraph (1)(a) shall be cancelled.

(6) An officer who elects to make payments under paragraph (1)(b) shall at the time of giving notice of his election provide a statement in writing signed by him that he knows of no reason why his health should prevent him from completing the payments required. If within 12 months of commencing payments under paragraph (1)(b) such an officer dies or makes application for the payment of an annual pension under regulation 7(1)(a)(i) which subsequently becomes payable, on the happening of such an event the election made by the officer shall cease to have effect and any payments made by him pursuant to such election shall be refunded:

Provided that where the Department is charged to income tax on any amount refunded under this paragraph, the sum payable by it under this paragraph shall be reduced by an amount equal to that tax.

(7) An officer who makes an election under paragraph (1)(a)(ii) or (1)(b) in circumstances in which a previous period of employment which was reckonable as service under these or the previous regulations, or under a health service scheme, in respect of which no transfer payment or any benefit except a return of contributions has been paid, is no longer reckonable may request that his election apply to the whole or any part of such service, not being service in contracted-out employment, and the sum payable by him in respect of such service shall be one-half of the appropriate amount calculated in accordance with Schedule 7.

(8) Where an officer has completed payments in accordance with the provisions of Schedule 7 which apply to him by virtue of paragraph (1)(a) or (b), the additional service so purchased shall be added to his contributing service:

Provided that in the case of an officer in part-time employment the service added to his contributing service shall be the proportion that the number of hours, half-days or sessions which he was required to work under his contract of employment bears to the number of hours, half-days or sessions which would have constituted whole-time service for the employment in question, during the period specified in—

- (i) paragraph 7(3)(a) of Schedule 7 where the election was made under paragraph (1)(a); or
- (ii) paragraph 2 of Schedule 7 where the election was made under paragraph (1)(b).

(9) In the case of a practitioner who has made payment in accordance with the provisions of Schedule 7 which apply to him by virtue of paragraph (1)(a) in respect of each year added to his contributing service by virtue of paragraph (8) there shall be added to his remuneration for the financial year in which the material date falls, the remuneration in respect of which a payment under paragraph (1)(a) was calculated, and a proportionate part of such remuneration shall be added in respect of any part of a year.

(10) In the case of a practitioner who has made payments in accordance with the provisions of Schedule 7 which apply to him by virtue of paragraph (1)(b), in respect of each year added to his contributing service by virtue of paragraph (8) there shall be added to his remuneration for the financial year in which he reached his date of intended retirement, the annual average of his total uprated remuneration, uprated in

accordance with regulation 64(2)(a), during the period for which contributions were paid, and a proportionate part of such remuneration shall be added in respect of any part of a year.

(11) Where an officer has ceased to make payments in accordance with the provisions of Schedule 7 which apply to him by virtue of paragraph (1)(b) before he has made all the payments which he is liable to pay and at least one payment has been made by him—

- (a) subject to paragraph (6), if he has not attained the age of 60, and has become entitled to a pension under regulation 7(1)(a)(i) or dies while he is still an officer, any payments which he was liable to pay shall be deemed to have been paid by him for the purpose of crediting additional service he shall be deemed to have continued in the same employment until his date of intended retirement;
- (b) if he is in receipt of a pension under regulation 7(1)(a)(i) and he again becomes an officer before his date of intended retirement his election under paragraph (1)(b) shall continue to have effect and notwithstanding sub-paragraph (a) he shall be liable to make payments in accordance with the provisions of Schedule 7 from the date he again became an officer;
- (c) if he ceases to be an officer in circumstances other than those mentioned in sub-paragraph (a) or is absent from duty without leave, or is such an officer as is described in regulation 6(2)(b)(i) then, subject to regulation 25, there shall be added to his contributing service a period of service determined in accordance with the formula

$$L \times P$$

$$S$$

where—

L is the length of the period in respect of which additional contributions have been paid;

P is the length of the period of additional contributing service in respect of which he elected to pay additional contributions; and

S is the length of the period in respect of which additional contributions should have been paid in accordance with his election under paragraph (1)(b);

- (d) if sub-paragraph (c) has applied to him and he again becomes an officer within 12 months after the date he ceased to be an officer in circumstances in which his previous service is reckonable as contributing service, his election under paragraph (1)(b) shall continue to have effect;
- (e) in the case of an officer in part-time employment the service added in accordance with sub-paragraph (a) or (c) to his contributing service shall be the proportion that the number of hours, half-days or sessions which he was required to work under his contract of employment bears to the number of hours, half-days or sessions which would have constituted whole-time service for the employment in question during the period for which payments were made or were deemed to have been made.

(12) Where benefits under these regulations become payable to or in respect of an officer on a date earlier than his date of intended retirement, there shall be deducted from the period of contributing service determined in accordance with paragraph (11)(c) and, where applicable paragraph (11)(e), such a period as may be determined by the Government Actuary to allow for such earlier payment of benefits.

(13) In the case of a practitioner, in respect of each year that is added to his contributing service by virtue of paragraph (11) reduced in accordance with

paragraph (12) where appropriate there shall be added to his remuneration for the financial year in which employment terminated, the annual average of his total uprated remuneration, uprated in accordance with regulation 64(2)(a), during the period for which contributions were paid, and a proportionate part of such remuneration shall be added in respect of any part of a year.

(14) In this regulation—

“material date” has the meaning assigned by paragraph 3 of Schedule 7; and
 “date of intended retirement” has the meaning assigned by paragraph 8 of Schedule 7.

(15) This regulation shall not apply to an election made by an officer before 12th August 1983 under regulation 22A of the 1962 regulations(a) and the provisions of those regulations shall continue to apply as if these regulations had not been made.

Additional payments to reckon certain periods of service as contributing service at actual length

23.—(1) An officer who is entitled under regulation 31(1)(a)(ii) to reckon a period of service before 6th April 1978 as contributing service at half its length may within 12 months of first becoming such officer elect to pay an amount equal to the contributions he would have paid during that period had his remuneration been his remuneration on the material date and on making such payment that period shall reckon as contributing service at its actual length:

Provided that—

- (i) the time limit of 12 months may be extended to such longer period as the Department may in any particular case allow; and
- (ii) if an officer whose remuneration is calculated in accordance with paragraph 8(3)(b) of the Ninth Schedule to the 1962 regulations ceases to be an officer during the period therein mentioned (otherwise than by virtue of regulation 19(1)) his election under this regulation shall be cancelled.

(2) Payments under paragraph (1) may be made—

- (a) wholly or partly by a lump sum paid within such time as the Department may specify; and
- (b) any balance not paid by a lump sum, by equal instalments spread over not more than 5 years, the first instalment to be paid within such period as the Department may specify and the whole of the instalments to be paid by the date on which the officer attains the age of 65 years.

(3) Where any payments in accordance with this regulation remain to be made by an officer—

- (a) in the event of his becoming entitled to a pension payable immediately on ceasing to be an officer or dying whilst an officer, a deduction in respect of any amount due shall be made from any benefit payable under these regulations to or in respect of him;
- (b) in the event of his ceasing to be an officer in circumstances other than those mentioned in sub-paragraph (a) then, unless within 6 months of so ceasing to be an officer he pays the balance of the total amount due to be paid, there shall be reckonable as contributing service at full length only such proportion of the period of service which he elected to be so reckonable as the amount paid bears to the total amount due to be paid and the remainder of such period shall reckon as contributing service at half length; or
- (c) if sub-paragraph (b) has applied to him and he again becomes an officer within 6 months in circumstances in which his previous service is reckonable

(a) The relevant amending regulations are: S.R. 1974 No. 327 and 1978 No. 301

or was taken into account for the purpose of calculating benefits under regulation 7(1)(a)(iv) or 7(1)(a)(v), he may within 3 months of so becoming an officer make the payment that he would have made if he had not ceased to be an officer and on making such payment his election under this regulation shall continue to have effect;

- (d) the Department may in any particular case extend any time limit mentioned in this regulation.
- (4) In this regulation—
 - (a) “the material date” means the date on which the officer’s election is received by his employing authority; and
 - (b) “remuneration” in relation to remuneration on the material date has the same meaning as “remuneration” in paragraph 8(3) of the Ninth Schedule to the 1962 regulations.

Purchase of unreduced retiring allowance

24.—(1) Subject to the following provisions of this regulation, where either proviso (a) or (b) to regulation 8(3) applies to the calculation of an officer’s retiring allowance, he may on giving written notice to his employing authority elect—

- (a) within 12 months of
 - (i) making a nomination under regulation 15, or
 - (ii) in the case of a male officer who marries after 11th August 1983 and whose retiring allowance thereby falls to be calculated in accordance with proviso (a) to regulation 8(3), the first date on which he is an officer after so marrying, to make a payment in accordance with the provisions of paragraph 1 of Schedule 8; or
- (b) 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 paragraph 2 of Schedule 8;

in respect of the whole or any part of his contributing service before 25th March 1972, so that the retiring allowance to which he may become entitled in respect of such contributing service shall, on completion of such payment be a sum equal to three times the annual amount of his pension (as calculated under regulations 8 and 64) in respect of that service and for the purpose of calculating the payment required under this regulation any period of service which is reckonable at greater than its actual length by virtue of regulation 50 shall be reckonable at that greater length.

(2) Notwithstanding the provisions of paragraph (1) an officer may, if his last birthday or his birthday prior to his last birthday occurred during the period beginning with 1st May 1982 and ending with 31st October 1983, elect on giving written notice to his employing authority on or before 31st October 1983 to make payments under paragraph (1)(b) as if the notice had been received by his employing authority either on the day before his last birthday or the day before his birthday prior to his last birthday.

(3) Where an officer to whom paragraph (2) relates has given notice in accordance with that paragraph he shall on or before the expiration of three months beginning with the date of receipt of such notice by his employing authority make a single payment equal to the total amount of the payments which would have been payable by him if his election had been made on the day before his last birthday or the day before his birthday prior to his last birthday as the case may be and if he does not make such a payment before the expiration of that period his election shall cease to have effect.

- (4) An officer may not elect to make payments under this regulation—
 - (a) during a period of absence from duty without leave or a period of leave of absence from duty on account of sickness or a period of leave of absence from duty without remuneration or with reduced remuneration, or

- (b) in respect of any service before 25th March 1972 for which he has become entitled to receive payment of a retiring allowance.

(5) If an officer who has elected under paragraph (1)(a) to make a single payment ceases to be an officer during the period mentioned in paragraph 4(3)(a)(ii) or 4(3)(b)(ii) of Schedule 8 (otherwise than by virtue of regulation 19(1)) his election under paragraph (1)(a) shall cease to have effect.

(6) An officer who elects to make payments under paragraph (1)(b) shall at the time of giving notice of his election provide a statement in writing signed by him that he knows of no reason why his health should prevent him from completing the payments required. If within 12 months of commencing payments under paragraph (1)(b) such an officer dies or makes application for the payment of an annual pension under regulation 7(1)(a)(i) which subsequently becomes payable, on the happening of such an event the election made by the officer shall cease to have effect and any payments made by him pursuant to such election shall be refunded:

Provided that where the Department is charged to income tax on any amount refunded under this paragraph, the sum payable by it under this paragraph shall be reduced by an amount equal to that tax.

(7) Where an officer in part-time employment has completed payment in accordance with the provisions of Schedule 8 which apply to him by virtue of sub-paragraph (a) or (b) of paragraph (1) the provisions of that paragraph shall apply only to that proportion of the contributing service in respect of which he has made payment as the number of hours, half-days or sessions which he was required to work under his contract of employment bears to the number of hours, half-days or sessions which would have constituted whole-time service for the employment in question during the period specified in—

- (a) paragraph 4(3)(a) of Schedule 8 where the election was made under paragraph (1)(a); or
 (b) paragraph 2 of Schedule 8 where the election was made under paragraph (1)(b).

(8) Where an officer has ceased to make payments in accordance with the provisions of Schedule 8 which apply to him by virtue of paragraph (1)(b) before he has made all the payments which he is liable to pay and at least one payment has been made by him—

- (a) subject to paragraph (6), if he has not attained the age of 60, and has become entitled to a pension under regulation 7(1)(a)(i) or dies while he is still an officer, any payments which he was liable to pay shall be deemed to have been paid by him and he shall be deemed to have continued in the same employment until his date of intended retirement;
- (b) if he is in receipt of a pension under regulation 7(1)(a)(i) and he again becomes an officer before his date of intended retirement his election under paragraph (1)(b) shall continue to have effect and notwithstanding sub-paragraph (a) he shall be liable to make payments in accordance with the provisions of Schedule 8 from the date he again becomes an officer;
- (c) if he ceases to be an officer in circumstances other than those mentioned in sub-paragraph (a) or is absent from duty without leave, or is such an officer as is described in regulation 6(2)(b)(i), the provisions of paragraph (1) shall apply only to the contributing service determined in accordance with the formula

$$\frac{F \times G}{H}$$

where—

F is the length of the period in respect of which additional contributions have been paid;

G is the length of the period of contributing service in respect of which he elected to pay additional contributions; and

H is the length of the period in respect of which additional contributions should have been paid in accordance with his election under paragraph (1)(b);

(d) if sub-paragraph (c) has applied to him and he again becomes an officer within 12 months after the date he ceased to be an officer in circumstances in which his previous service is reckonable as contributing service, his election under paragraph (1)(b) shall continue to have effect;

(e) in the case of an officer in part-time employment the provisions of sub-paragraph (a) or (c) shall apply only to that proportion of the contributing service in respect of which he has, or by virtue of sub-paragraph (a) is deemed to have, made payments as the number of hours, half-days or sessions which he was required to work under his contract of employment bears to the number of hours, half-days or sessions which would have constituted whole-time service for the employment in question during the period for which payments were made or were deemed to have been made.

(9) Where benefits under these regulations become payable to or in respect of an officer on a date earlier than his date of intended retirement, there shall be deducted from the period of contributing service determined in accordance with paragraph (8)(c) and, where applicable, (8)(e), such a period as may be determined by the Government Actuary to allow for such earlier payment of benefits.

(10) Where in the case of an officer to whom paragraph (1) applies his contributing service includes service as a practitioner, the retiring allowance to which he may become entitled in respect of each year of service as a practitioner purchased shall be 4.2 per cent of the annual average of his total uprated remuneration, uprated in accordance with regulation 64(2)(a), received in respect of service as a practitioner prior to 25th March 1972 and a proportionate part of such remuneration shall be credited in respect of any part of a year.

(11) In calculating the amount by which a death gratuity shall be reduced in accordance with the provisions of regulation 11(3)(a) or (b) or 11(4), as the case may be, no account shall be taken of that part of the officer's contributing service before 25th March 1972 in respect of which payment under paragraph (1) has been completed or deemed to have been completed.

(12) In this regulation—

“material date” has the meaning assigned by paragraph 3 of Schedule 8; and
“date of intended retirement” has the meaning assigned by paragraph 5 of Schedule 8.

(13) This regulation shall not apply to an election made by an officer before 12th August 1983 under regulation 22C of the 1962 regulations(a) and the provisions of those regulations shall continue to apply as if these regulations had not been made.

Limitation on reckonable service

25.—(1) Notwithstanding the provisions of regulations 18 to 24, the contributing service of an officer before he attains the age of 60 years or, if the officer is a mental health officer, or a woman who is a nurse, physiotherapist, midwife or health visitor, the age of 55 years, that is reckonable as service shall not exceed 40 years and any service added under regulation 31(3), 32(6) or 68(2) or (3) shall not exceed such amount as would increase the contributing service to 40 years.

(2) Where the contributing service of an officer exceeds 45 years, any benefits payable to or in respect of him under these regulations shall be based on 45 years of such service.

(a) The relevant amending regulations are: S.R. 1976 No. 46 and 1978 No. 301

Reckoning of contributing service

26.—(1) There shall be reckonable as contributing service in relation to the employment of an officer by an employing authority—

- (a) service in respect of which he has made or is or was deemed to have made the contributions required by these regulations or by the previous regulations;
- (b) any service which was reckonable as contributing service in relation to that employment under the previous regulations;
- (c) any service which is reckonable as contributing service under the provisions of regulation 18(1) or 18(3);
- (d) any service in respect of which he completes or has completed payments in accordance with the provisions of the Second Schedule to the 1962 regulations(a);
- (e) any other service which by virtue of these regulations is reckonable as contributing service; and
- (f) any periods added to his contributing service reckonable by virtue of regulation 22A of the 1962 regulations or any corresponding provision of the previous regulations;
- (g) any periods added to his contributing service reckonable by virtue of regulation 22A of the 1962 regulations on or after 12th August 1983 except for the purposes of regulations 7(1)(a)(i), (iv), (vi) and (vii), 28(3) and 61(2) of those regulations; and
- (h) any periods added to his contributing service reckonable by virtue of regulation 22 except for the purposes of regulations 7(1)(a)(i), (iv), (v) and (vi), 31(3) and 68(2).

(2) Any war service or national service which is reckonable as a period of service under regulation 20 of the 1962 regulations in relation to an officer shall be reckonable as a period of contributing service if his service immediately before such war service or national service is so reckonable.

Continuation of additional contributory payments previously made under a local Act scheme

27.—(1) This regulation shall apply where before 1st January 1974 a person—

- (a) became an officer after ceasing employment in which he was a local Act contributor and thereupon became entitled to have his service in respect of that employment reckoned; and
- (b) on the date when he ceased that employment was in the course of making payments (otherwise than in respect of added years) by way of—
 - (i) instalments in discharge of a fixed sum; or
 - (ii) contributions of a fraction or percentage of emoluments additional to the percentage payable in respect of current service,

as a condition of being entitled to have reckoned any period of employment in relation to which those payments were being made as a period of service or a period of contribution for the purposes of the local Act scheme, or as a condition of increasing the length at which the said period of employment would be reckonable as a period of service or a period of contribution for the purpose of calculating a benefit under the local Act scheme; but notwithstanding anything in these regulations, the said period of employment shall not otherwise be reckonable, or shall reckon as contributing service at the length at which it would have been reckonable if no such payments had been made, as the case may be.

(a) S.R. & O. (N.I.) 1962 No. 237. The relevant amending regulations are: S.R. & O. (N.I.) 1972 No. 343; S.R. 1974 No. 327

(2) If the officer notifies the employing authority in writing within 3 months after entering their employment that he elects to make payments in pursuance of this regulation and pays to that authority within that period or within such longer period as the Department may in any particular case allow an amount equal to any sum paid to him by way of a return of any such payments as are referred to in paragraph (1), then—

- (a) in a case to which paragraph (1)(b)(i) applies the amount which, if paid as a single payment, would discharge the outstanding liability; and
- (b) in a case to which paragraph (1)(b)(ii) applies the capital value of the outstanding liabilities, as certified by an actuary appointed by the local Act authority,

shall be deemed to be a sum payable under the Second Schedule to the 1962 regulations and if payment is made in accordance with the provisions of that Schedule the period of employment in respect of which the payments were being made shall be reckonable as a period of contributing service in the manner in which it would have been reckonable under these regulations if the payments had been completed before the officer left the employment in which he was a local Act contributor.

(3) Subject to any necessary modifications, this regulation shall also apply in relation to any person who became an officer before 1st January 1974 and thereupon became entitled to have reckoned as service previous employment (otherwise than as a contributory employee) in which he was subject to a superannuation scheme as if such scheme was a local Act scheme and the expression "local Act contributor" shall be construed accordingly.

Continuation of additional contributory payments previously made under certain schemes

28. This regulation shall apply where before 1st January 1974 a person—

- (a) became an officer after ceasing employment in which he was a contributory employee or a person subject to the Belfast Corporation Superannuation Scheme, the Local Government Superannuation Regulations or a scheme approved by the Department under regulation 16(3)(e)(vi) of the original 1962 regulations containing provisions substantially similar to the provisions of the Second Schedule to the 1962 regulations; and
- (b) at the time when he ceased that employment was, or was treated as if he was, in the course of making additional contributory payments under the Second Schedule to the English or Scottish Local Government regulations 1954, the Second Schedule to the Belfast Corporation Superannuation Scheme, the Second Schedule to the Local Government Superannuation Regulations or any corresponding provision contained in any such scheme approved by the Department under regulation 16(3)(e)(vi) of the original 1962 regulations,

he shall be entitled to make the outstanding payments as if they were instalments of a sum payable under the Second Schedule to the 1962 regulations and, if he completes the payments in the manner provided in the said Second Schedule, to have the service in respect of which they were made reckoned as contributing service and notwithstanding anything in these regulations, that service shall not otherwise reckon.

Provisions with respect to added years

29.—(1) Subject to the provisions of this regulation, where before 1st January 1974 a person—

- (a) became an officer after ceasing employment in which he was a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Super-

annuation Regulations and thereupon became entitled to have his service in respect of that employment reckoned; and

- (b) on the date when he ceased that employment was in the course of making payments in respect of added years,

then, if he complies with such of the conditions set out in paragraph (2) as are applicable in his case, he shall be entitled to continue to make the like payments to his employing authority in respect of the added years as he would have been liable to make to the appropriate superannuation scheme or enactment to which he was subject in his former employment had that scheme or enactment been applicable to him in his new employment; and if he makes the said payments to his employing authority in the manner in which, and at the times at which, he would have been liable to make them as aforesaid, he shall be entitled—

- (i) to enjoy in relation to his employment as an officer rights in respect of added years corresponding with the rights which he would have enjoyed if at the time of entering the employment in which he is an officer he had become, instead, a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations; and
- (ii) to continue to enjoy those rights so long as he makes payments in respect of the said added years in the manner and at the times aforesaid and remains an officer of any employing authority without a break of 12 months or more and without having become during any break of less than 12 months a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations,

but notwithstanding anything in these regulations, such added years shall not otherwise reckon.

(2) The conditions referred to in paragraph (1) are that within 3 months after entering employment in which he is an officer he gives notice in writing to his employing authority of his intention to continue payments in respect of the said added years and pays to that authority within that period or such longer period as the Department may in any particular case allow an amount equal to any sum paid to him by way of return of contributions paid in respect of the said added years on or after his ceasing to hold the employment in which he was a contributory employee, a local Act contributor, a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations together with an amount equal to any income tax which was deducted from his contributions in respect of such return.

- (3) Notwithstanding anything in paragraphs (1) and (2)—

- (a) an officer shall not be entitled to make payments in respect of added years under paragraph (1) if he left the employment in which he was a contributory employee, a local Act contributor, a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations in such circumstances that in consequence of a resolution of the authority by whose consent the added years first became reckonable he ceased to be entitled to reckon the said added years; and
- (b) an officer who makes payments in respect of added years under paragraph (1) in respect of employment in which he is an officer shall also make payments in respect of those added years in respect of any other employment as an officer which he holds concurrently with the first-mentioned employment.

(4) Subject to any necessary modifications, this regulation shall also apply in relation to added years reckonable in respect of any person who became an officer before 1st January 1974 and thereupon became entitled to have reckoned as service previous employment in which he was subject to a superannuation scheme as if such

(2) Where a benefit (except a benefit under regulation 43) payable to or in respect of an officer is required to be calculated by reference to years of contributing or non-contributing service, there shall also be payable in respect of any part of a year an amount which bears the same proportion to the amount payable for a year as the number of days in that part bears to 365 days.

(3) Where a pension is payable under regulation 7(1)(a)(i) there shall be added to the officer's service a period of contributing service as follows—

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

Provided that—

- (i) in determining the period by which the officer's service would have been increased if he had continued to be employed, no account shall be taken of any provision in these regulations for reckoning any period of service at more than its length; and
- (ii) this paragraph shall not apply to an officer with service as a practitioner, but regulation 68(3) shall apply to such an officer as it applies to a practitioner with service otherwise than as a practitioner.

Calculation of service in part-time employment

32.—(1) For the purposes of determining whether any benefit is payable to or in respect of an officer, or in applying any provision of these regulations which limit the service to be taken into account to a specified period of 40 or 45 years, or in reckoning the period of any employment for the purposes of regulation 50 or of any service for the purposes of regulation 9 or 51(3), the service of an officer in part-time employment shall be treated as whole-time service and for these purposes concurrent periods of employment shall be regarded as a single employment.

(2) For any purpose of these regulations not specified in paragraph (1), the service of an officer in part-time employment shall be calculated in accordance with the following provisions of this regulation but so that, except as provided in regulation 50, concurrent part-time employments during any period shall not in aggregate be treated as a greater period of whole-time service.

(3) Subject to the provisions of paragraph (7), where a part-time employment is expressed to be for a specified number of half-days or sessions per week, the service shall be treated as whole-time service for a period which bears the same proportion to the period of the service in part-time employment as the number of half-days or sessions of employment bears to the number of half-days or sessions which would have constituted whole-time service for the employment in question.

(4) Where the remuneration for any employment referred to in paragraph (3) is expressed at a rate greater or less than the relevant proportion of whole-time salary, the period of service calculated under that paragraph shall be increased or decreased, as the case may be, in the same proportion.

scheme was a local Act scheme and the expression "local Act contributor" shall be construed accordingly.

Continuation of additional contributions by transferred officers

30.—(1) Where a transferred officer, other than an officer to whom the provisions of regulation 40 or 44 apply, was, immediately before he became a transferred officer, paying or had elected to pay additional contributions in order to have reckoned added years of service or to increase the length or value at which a period of service may reckon, then if—

- (a) within 3 months of becoming a transferred officer he gives notice in writing to his employing authority of his intention to make or continue to make such payments,
- (b) he makes or continues to make those payments which he would have been liable to make in his former employment to his employing authority, and
- (c) he remains an officer of an employing authority without a break of 12 months or more and without having received a benefit under these regulations,

he shall be entitled to enjoy in relation to his employment as an officer rights in respect of such payments corresponding with those he would have enjoyed if at the time of becoming such transferred officer he had remained in his former employment and notwithstanding anything in these regulations, he shall not otherwise be entitled to enjoy those rights.

(2) An officer who makes payments under paragraph (1) in respect of employment in which he is an officer shall also make such payments in respect of all concurrent employment as an officer.

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

31.—(1) In calculating the length of an officer's whole-time service, other than service as a practitioner, and in making any other calculation under these regulations (except a calculation under regulation 43)—

- (a) any of the following periods of service which is not reckonable as contributing service by virtue of regulation 26 shall be reckonable at its full length for the purpose of determining whether any benefit is payable to or in respect of him, and for all other purposes shall reckon as a period of contributing service at half its length—
 - (i) any period of service which was reckonable before 25th March 1972 as a period of non-contributing service;
 - (ii) any period of whole-time service during which he did not pay and was not deemed to have paid contributions but excluding a period of employment during which he was absent without leave; and
 - (iii) any service which became reckonable prior to 1st January, 1974 by virtue of regulation 16 of the 1962 regulations^(a) or a corresponding provision of the previous regulations and which was reckonable in the superannuation scheme in which he participated as non-contributing service or as a period of service which would have reckoned for benefits at half the value of the benefits for contributing service or for established service;
- (b) in order to determine the total contributing service of an officer all periods of contributing service shall be aggregated, and where 2 or more periods aggregate to 365 days or more each period of 365 days shall be reckoned as one year, service on 29th February in a leap year being disregarded.

(a) S.R. & O. (N.I.) 1962 No. 237. The relevant amending regulations are: S.R. & O. (N.I.) 1967 No. 55; 1973 No. 101; S.R. 1974 No. 93; 1976 No. 46; 1978 No. 301 and 1983 No. 178

(5) For any part-time employment other than those described in paragraphs (3) and (7), the service shall be treated as whole-time service for a period which bears the same proportion to the period of the service in the part-time employment as the number of hours of employment in each week bears to the number of hours which would have constituted whole-time service for the employment in question.

(6) Notwithstanding anything in regulation 31(3), where an officer becomes entitled to a pension under regulation 7(1)(a)(i) in respect of service which consists of or includes service in part-time employment, his aggregated service, as calculated under regulation 31(1) and paragraph (1), shall be increased as provided in regulation 31(3) and his reckonable service shall be increased by the same proportion as such aggregated service is increased.

(7) The service reckonable in respect of all periods of part-time employment before 15th December 1966 which are not expressed to be for a specified number of half-days, sessions or hours per week, not being periods of service as a practitioner on the list of a Health and Social Services Board or as an assistant practitioner or being periods during which the officer devoted substantially the whole of his time to the performance of specialist services pursuant to the provisions of the Act, shall be calculated as follows—

- (a) the remuneration in respect of all employments to which this paragraph applies shall be uprated to the end of such employments in such manner as the Department, after consulting such professional organisations as appear to it to be appropriate, may determine and a notional pension shall be calculated at the rate of 1.4 per cent of such uprated remuneration;
- (b) the Department shall determine the remuneration that would have been payable in respect of a single notional whole-time employment comparable to the employments to which this paragraph applies and any other employments, not being periods of service as a practitioner on the list of a Health and Social Services Board or as an assistant practitioner, held before or at the same time as any employment to which this paragraph applies and a notional pension in respect of one year of contributing service shall be calculated at the rate of 1/80th of the annual average of such remuneration in the last 3 years of such notional employment, or in the whole of such notional employment if less than 3 years;
- (c) the service reckonable in respect of the employments to which this paragraph applies shall be that period which bears the same relationship to one year of contributing service as the notional pension calculated under sub-paragraph (a) bears to the notional pension calculated under sub-paragraph (b).

Meaning of average remuneration

33.—(1) For the purposes of these regulations, the average remuneration of an officer in relation to his employment by an employing authority means his remuneration in respect of his final year of such paid employment, and of any other employment, war service or national service reckonable as contributing service in relation to that employment, ending on the date on which he ceased to be an officer or the date on which he became an officer referred to in regulation 6(2) whichever is the earlier, and such a final year shall, if a particular case so requires, be computed by aggregating periods of employment so as to constitute a period of one year so, however, that if his employment or service as aforesaid was for less than one year his average remuneration shall be deemed to be the amount he received increased by the proportion which 365 bears to the number of days of his employment or service:

Provided that—

- (a) (i) if the annual amount of remuneration of an officer in either of the 2 consecutive years of paid employment immediately preceding the final

- year is higher than his remuneration in his final year, then the remuneration in whichever of such earlier years was the higher shall be deemed to be the amount of remuneration for the final year, except that where the remuneration in the 2 consecutive years immediately preceding the final year is higher than the remuneration in the final year by an equal amount the remuneration in the year immediately preceding the final year shall be deemed to be the amount of remuneration for the final year;
- (ii) if his employment was for less than 3 years and his remuneration in the year of paid employment immediately preceding his final year was higher than his remuneration in his final year, then such higher remuneration shall be deemed to be the amount of remuneration for the final year;
 - (b) in the case of an officer who, on a reduction in his remuneration, made contributions in accordance with regulation 6(5) of the 1962 regulations(a) or the corresponding provision of the previous regulations, the remuneration on which he so made contributions in respect of the period during which his remuneration was reduced shall be deemed to have been the remuneration of his employment during that period;
 - (c) in the case of an officer who made contributions in accordance with regulation 6(3) or the corresponding provision of the previous regulations, the remuneration on which he so made contributions shall be deemed to have been the remuneration of his employment;
 - (d) in the case of an officer whose remuneration was reduced by reason of his absence from duty owing to illness or injury, no account shall be taken of the reduction;
 - (e) the remuneration of an officer in respect of any period of war service or national service which is reckonable as service under these regulations shall be deemed to have been the remuneration on which he made contributions in accordance with regulation 6(6) or regulation 5(7) of the 1954 regulations;
 - (f) except for the purposes of regulation 36, or for the calculation under regulation 11 of a sum equal to the amount of a person's average remuneration, the remuneration in respect of any period or any concurrent periods of part-time employment shall be deemed to be the remuneration which the Department determines would have been paid in respect of a single comparable whole-time employment;
 - (g) in calculating for the purposes of these regulations, except regulation 36, the average remuneration of an officer whose service includes service as a medical officer or a dental officer, no account shall be taken of any fees paid to him in accordance with his terms of service for domiciliary consultations;
 - (h) if the employment as an officer was for less than 3 years and there is a period of previous employment reckonable as contributing service under regulation 18(4) the remuneration in respect of that previous employment shall be deemed to be at the annual rate of pensionable pay by reference to which the contributing service was calculated under Schedule 2;
 - (i) in a case where any payment which has been awarded to an officer or to which he was entitled under his conditions of employment has been withheld or deferred in the national interest then, if the Department considers it appropriate, the withholding or deferment shall be deemed not to have taken place.

(a) S.R. & O. (N.I.) 1962 No. 237. The relevant amending regulations are: S.R. & O. (N.I.) 1967 No. 55 and S.R. 1976 No. 46

(2) Except as provided in proviso (f) to paragraph (1) the remuneration of any previous employment shall not be taken into account in calculating a person's average remuneration in relation to his employment as an officer if that remuneration has previously been taken into account in the calculation of his average remuneration in relation to any other employment for the purpose of a benefit payable to him under these regulations in respect of that other employment.

Return of contributions

34.—(1) Subject to the following provisions of this regulation, a person who on ceasing to be an officer does not become entitled to receive payment of any other benefit under these regulations and who holds no other employment in which he is an officer shall be entitled to receive from the Department a return of his contributions which, if he is an excepted officer or ceased to be an officer otherwise than at his own request and otherwise than as a result of his misconduct or inefficiency, shall be increased by an amount equal to compound interest thereon:

Provided that no interest shall be added in respect of any period before becoming an officer unless he was subject to an enactment or scheme under which in the circumstances in which he ceased to be an officer his contributions would or might have been returned with interest.

(2) In this regulation the word "contributions" has the meaning assigned to it by regulation 2(6), but only in so far as any sums included in that definition—

- (a) have not been returned to the person or, if they have been returned to him, he has repaid the amount he received and any further amount which he is required under these or the previous regulations to pay, and
- (b) are attributable to service which was reckonable under these regulations immediately before he ceased to be an officer and in respect of which he has not become entitled to a benefit under these or the previous regulations and no transfer payment has been paid under those regulations.

(3) Where the Department is charged to income tax on any amount paid under this regulation, the sum payable by it under this regulation shall be reduced by an amount equal to that tax.

(4) Where a person who on ceasing to be an officer before 6th April 1980, has attained the age of 26 years and has completed 5 years' service, excluding any added years would, apart from this paragraph, be entitled to receive under this regulation a return of his contributions and any of those contributions were paid in respect of remuneration exceeding £5,000 in any financial year, or were paid under some other superannuation scheme in which he was subject on leaving, to a provision corresponding to this paragraph, he shall not be entitled to receive any payment under this regulation, but in lieu thereof shall be entitled to benefits under regulation 7(1)(a)(iv).

(5) A person shall not be entitled to a return of contributions in respect of any period of service—

- (a) after 5th April 1975 (excluding any added years) if on ceasing to be an officer he has attained the age of 26 years and completed 5 years' service after that date;
 - (b) in contracted-out employment for which no contributions equivalent premium has been paid, other than such a period for which no such premium is payable solely because the officer was a person described in paragraph (6), or in respect of any subsequent period of service; or
 - (c) for which a transfer payment has been repaid in the circumstances mentioned in regulation 7(1)(a)(iii).
- (6) (a) Where a return of contributions is payable in respect of a period of service of a woman officer who would attain the age of 60 years during the tax

year in which she ceases to be an officer, any payment made to her under this regulation shall be reduced by the amount by which it would have been reduced had a contributions equivalent premium been paid.

- (b) For the purposes of this paragraph "tax year" means a year beginning with 6th April.

Calculation of interest on contributions

35. Where under any of these regulations provision is made for the calculation of compound interest on the contributions of an officer, that calculation, unless otherwise provided, shall be made at the rate of 2½ per cent per annum, with yearly rests, up to the date of his death, or, if he ceased to be an officer before he died, the date on which he ceased to be an officer, and shall begin to run from the first day of the year commencing on the first day of April following the year in which the contributions were made:

Provided that—

- (a) if any of the contributions were made under an enactment or scheme in the benefits of which the officer participated before becoming an officer, and that enactment or scheme made provision for the calculation of interest on contributions returned thereunder in a different manner from that provided by this regulation, interest on the contributions so made shall be calculated in the manner provided by the enactment or scheme in the benefits of which the officer last participated before becoming an officer up to the date on which he became an officer or, if he received a return of those contributions before that date, up to the date of such return; and
- (b) where an officer, having received a return of contributions on or after ceasing to hold some former employment, has paid or repaid those contributions to the employing authority, then—
- (i) if those contributions were returned without interest, the interest thereon shall not begin to run until the first day of April in the year following that in which those contributions were so paid or repaid as aforesaid; and
- (ii) if those contributions were returned with interest, no interest shall be calculated thereon between the date on which they were returned and the first day of April in the year following that in which they were so paid or repaid as aforesaid;
- (c) where an officer has become entitled to benefits under regulation 7(1)(a)(iv) and has again become an officer, then—
- (i) in respect of his service for which he first became entitled to such benefits, interest shall be calculated only to the date when he last ceased to be an officer before becoming so entitled, and
- (ii) no interest shall be added in respect of any subsequent period of service.

Reduction of pension in certain cases

36.—(1) Where a person who has become entitled to a pension—

- (a) continues in or enters the employment of an employing authority as defined in regulation 3 or as defined in the corresponding provisions of the English or Scottish regulations; or
- (b) continues in or enters any other employment in which he participates in the benefits provided under these regulations or the English or Scottish regulations; or
- (c) being a person to whom regulation 7(1)(a)(v) of the 1962 regulations applied has entered employment the remuneration of which is payable by the Department of Health and Social Services,

he shall forthwith give notice in writing to his employer and to such other person as the Department may specify that he continues in or has entered such employment having become entitled to such pension, and, until he attains the age of 70 years, such pension shall be liable to reduction under this regulation:

Provided that—

- (i) the reference in sub-paragraph (a) to an employing authority shall not be deemed to include an employer with whom an agreement has been made under Article 12(9) of the Superannuation (Northern Ireland) Order 1972(a) or in respect of whom a direction has been made under Article 12(6) of that Order; and
- (ii) this paragraph shall not apply to a pension payable to a person immediately before he was transferred to the employment of an employing authority under Article 77 of the Order.

(2) Whilst a person holds any employment to which paragraph (1) applies, being employment—

- (a) as a practitioner, or
- (b) in which the remuneration consists of or includes fees, variable allowances, or other payments not of a fixed nature, or
- (c) which is not expressed to be for a regular number of hours in a pay period, or
- (d) which is concurrent with some other employment to which this paragraph applies,

the pension payable for any quarter shall be so reduced (if necessary) as to ensure that his uprated pension for that quarter together with his re-employment earnings in that quarter do not exceed one-quarter of his pre-retirement earnings uprated to the last day of that quarter.

(3) (a) Whilst a person holds any employment to which paragraph (1) applies, other than an employment to which paragraph (2) applies, the rate of pension payable shall be so reduced (if necessary) as to ensure that the rate of his uprated pension at the date of commencement of that employment together with the rate of his re-employment earnings at that date do not exceed his pre-retirement earnings uprated to that date.

(b) For the purposes of this paragraph—

- (i) an employment which was held on 1st October 1972 shall be deemed to have commenced on that date;
- (ii) a continuing employment shall be deemed to have commenced on the day on which the pension commenced; and
- (iii) an employment shall be deemed to end and a new one commence—
 - (aa) on a change in the number of hours required to be worked in a pay period, except for the first 30 days during which the hours are increased in any period of 12 months;
 - (bb) on a change of grade other than as a result of re-structuring of grades, except for the first 30 days during which there is a change to a higher grade in any period of 12 months;
 - (cc) on the cessation or commencement of a concurrent employment to which this paragraph applies;
 - (dd) in the case of an employment to which paragraph (2)(d) applies, on the cessation of all concurrent employment to which paragraph (2) applies;

- (ee) on the employee attaining such age or satisfying the other conditions which comprise qualifying conditions under the Pensions (Increase) Act (Northern Ireland) 1971(a) and thereupon becoming entitled to pensions increase under that Act; or
 - (ff) on a change in the conditions or terms of employment which, in the opinion of the Department, constitutes a new employment.
- (4) In this regulation—
- (a) “annual rate of remuneration” in relation to a person means the annual rate of so much of his remuneration as consisted of salary, wages or other payments or emoluments of a fixed nature as was payable immediately before he last became entitled to a pension, together with so much of his remuneration as consisted of fees and other payments or emoluments not of a fixed nature as was payable during the last year before he became so entitled or, in the case of a practitioner, the annual average of such payments during the last 3 financial years before he became so entitled;
 - (b) “continuing employment” means any employment to which paragraph (1) applies which a person held immediately before he became entitled to the said pension and which he continues to hold;
 - (c) “pension” means a pension payable under these or the previous regulations;
 - (d) “uprated pension” means the aggregate amount of all pensions payable for the quarter specified in paragraph (2), or the aggregate of all pensions payable at the date specified in paragraph (3), together (in either case) with any increases thereon payable under the Pensions (Increase) Act (Northern Ireland) 1971;
 - (e) “pre-retirement earnings” means—
 - (i) in the case of a person who last became entitled to a pension in relation to employment as a practitioner or employment in which the service was deemed to be service as a practitioner, the average of the annual amounts of the total uprated remuneration under regulation 64(2)(a) for service which was or was deemed to be service as a practitioner,
 - (ii) in the case of a person who last became entitled to a pension in relation to employment otherwise than as a practitioner and in which the service was not deemed to be service as a practitioner, the annual rate of remuneration in such employment or the average remuneration of such employment, whichever is the greater, and
 - (iii) in the case of a person to whom sub-paragraphs (i) and (ii) applied simultaneously, the aggregate of the amounts calculated under those provisions:

Provided that—

- (1) such pre-retirement earnings shall be increased by the annual rate of remuneration of any continuing employment;
- (2) where a person holds an employment to which the provisions of this regulation apply on 1st April 1980 the method of calculating pre-retirement earnings under sub-paragraph (i) shall not have the effect of reducing the amount of the pre-retirement earnings as calculated under the corresponding provision which applied immediately before that date, and this provision shall apply until the cessation of that employment;
- (3) for the purpose of sub-paragraph (ii), proviso (i) of regulation 33(1) shall not be applicable in the calculation of the average remuneration;

(a) 1971 c. 35 (N.I.)

- (f) "pre-retirement earnings uprated" means the pre-retirement earnings uprated to the specified date by an amount equal to any increase which would have been payable at such date under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of the same amount as the pre-retirement earnings and beginning on the day following the last day of employment had that Act applied to such pension:

Provided that where an officer who is entitled to a pension ceases to be such an officer and thereby becomes entitled to a further pension, his pre-retirement earnings as uprated shall not be less than they would have been had he not become entitled to such further pension;

- (g) "re-employment earnings" means, in relation to employments to which paragraph (1) applies, the person's remuneration for the purposes of these regulations, the English or Scottish regulations or such amount as would be that remuneration if in such employment he were an officer to whom these regulations applied.

Separate benefits in the case of certain re-employed pensioners

37.—(1) Where a person who is entitled to a pension payable out of public funds, whether under these regulations or otherwise, has become an officer and his pension is on that account liable to be reduced or suspended, then on ceasing to be employed, unless he is a person to whom regulation 38 applies, the service in respect of which that pension was granted shall be reckonable for the purpose of determining whether the person is entitled to receive any benefit under these regulations, but for no other purpose.

(2) For the purposes of regulations 6(2) and 25(1), in the case of a person mentioned in paragraph (1) the service in respect of which the said pension was granted shall be treated as though it were service under these regulations, and in the calculation of any benefit payable to or in respect of such a person under these regulations, whether by virtue of paragraph (1) or otherwise, account shall not be taken of any service under these regulations which, together with the service in respect of which the pension aforesaid was granted, exceeds 45 years:

Provided that—

- (a) where the said pension was granted to an established officer or servant of the first class under the Act of 1909 or to a person having (by virtue of an option exercised or treated as having been exercised under regulation 22 of the 1948 regulations) rights corresponding with the rights of a first class officer or servant under the Act of 1909, the service in respect of which the pension was granted shall be multiplied by 6/5ths;
- (b) where the said pension was granted to a person who was a mental health officer or a person having, in respect of years of service over 20, rights corresponding with those of a mental health officer, each year of which account was taken as if it were 2 years in calculating the amount of the said pension shall be reckoned as 2 years for the purposes of this paragraph;
- (c) where, under the proviso to regulation 8(1) of the 1962 regulations(a), or under a similar provision contained in or authorised by any other enactment or scheme, the said pension was calculated by reference to a minimum fraction of remuneration, it shall be deemed to have been granted in respect of years of service equal in number to the numerator of that fraction; and
- (d) any other notional increase or extension of service shall be similarly taken into account for the purposes of this paragraph.

(3) Where a benefit becomes payable to or in respect of a person to whom this regulation applies, any provision of these regulations prescribing a minimum benefit or a method of calculating the benefit otherwise than by reference to the amount of the person's contributions or the service reckonable by him or the amount of the pension which was or would in certain circumstances have become payable to him shall be disregarded.

(4) Notwithstanding anything in this regulation, the benefits payable under these regulations to or in respect of a person shall not be less than the benefits which would have been payable under these regulations had this regulation other than paragraph (2) not been made.

Combined benefits in the case of certain re-employed pensioners

38.—(1) Where a person who has become entitled to a pension or retiring allowance under these regulations or the previous regulations not being a reduced benefit awarded under regulation 75(2)(b) or the corresponding provision of the previous regulations has again become an officer and at the time of becoming such officer was not an officer mentioned in regulation 6(2), he may, unless the provisions of regulation 37 have been applied in respect of his previous service as an officer, if he so elects, or has so elected under the corresponding provision of the previous regulations, as from the date on which he ceases to be an officer, be entitled to benefits in accordance with the following provisions of this regulation in lieu of any pension to which he has become entitled as aforesaid and of any benefits to which he might otherwise be entitled under these regulations in respect of his service as such officer:

Provided that this regulation shall not apply in relation to any benefit to which the person became entitled under regulation 7(5) by virtue of his having been an officer to whom regulation 40 applied, or a corresponding arrangement under regulation 44 or in relation to any service taken into account in calculating that benefit.

(2) A person to whom paragraph (1) applies shall be entitled on ceasing to be an officer to receive the like benefits as he would be entitled to receive if the service (other than contributing service added under regulation 31(3), 68(2) or 68(3)) in respect of which he previously became entitled to a pension or retiring allowance were reckonable in addition to his service as such officer:

Provided that if the person had previously been entitled to a retiring allowance under these regulations, or the previous regulations, then—

- (a) if the amount of the said retiring allowance (hereinafter in this paragraph called "the first allowance") equals or exceeds the amount of the retiring allowance to which, apart from this sub-paragraph, he would be entitled under this paragraph (hereinafter called "the second allowance")—
 - (i) a retiring allowance shall not be payable under this paragraph; and
 - (ii) any other benefits payable to or in respect of the person under this paragraph shall be reduced in such manner as the Department may determine to be necessary for the purpose of recovering the amount (if any) by which the first allowance exceeds the second allowance; and
- (b) if the amount of the second allowance exceeds the amount of the first allowance the second allowance shall be reduced by the amount of the first allowance.

(3) If a person to whom paragraph (1) applies had taken advantage of the provisions of regulation 10 or the corresponding provisions of the previous regulations, in relation to any pension to which he had previously become entitled as aforesaid, no title to any pension shall accrue by reason thereof.

(4) If a person who has become entitled to benefits under this regulation again enters employment as an officer, paragraph (1) shall not apply on his ceasing to hold that employment unless he so elects.

Calculation of benefits on death of re-employed pensioner

39. Where such a person as is mentioned in regulation 38 dies while still an officer, the benefits payable in respect of him shall be calculated as if immediately before his death he had become entitled to a benefit under regulation 38 or a benefit under regulation 37, whichever method of calculation gives the greater benefit:

Provided that the method of calculation under regulation 37 shall not be applied in respect of any officer to whom that regulation could not have applied if he had ceased to be employed immediately before his death.

Benefits of officers who have exercised option to retain rights corresponding with those previously enjoyed

40.—(1) Where—

- (a) before the date of coming into operation of these regulations an officer was entitled by virtue of regulation 36(1), (1A) or (1B) of the 1962 regulations to enjoy rights corresponding with those which he would have enjoyed if he had remained subject to the superannuation enactment or scheme previously applicable in his case or an officer was treated by virtue of any provision of the previous regulations in like manner as though he were an officer to whom regulation 36 of the 1962 regulations applied; and
- (b) but for the revocation of the 1962 regulations by these regulations the provisions of Part II of the 1962 regulations would have applied to and in respect of him, in relation to the employment in which he is an officer, in the manner prescribed by regulation 36(1) of the 1962 regulations,

the provisions of this Part shall similarly apply to and in respect of him, as if, in relation to his employment as such officer, they required him to make the like contributions (if any) as he would have been liable to make and conferred upon him rights corresponding with those which he would have enjoyed if he had remained subject to the enactment or scheme previously applicable in his case, and those provisions shall continue so to apply to and in respect of him if he again becomes an officer to whom this regulation applies after becoming entitled to a pension under these or the previous regulations or so long as he is an officer to whom this regulation applies without a break of more than 12 months disregarding any period of an approved course of study or training:

Provided that—

- (a) on again becoming an officer to whom this regulation applies, this regulation shall also apply to any period of employment during any such break as is mentioned in this paragraph which is reckonable as service in relation to his employment as an officer;
- (b) if an officer who exercised an option referred to in regulation 36 of the 1962 regulations to retain rights corresponding with those enjoyed under the Act of 1909 was immediately before becoming an officer an established officer or servant of the first class under the Act of 1909, and is at any time employed otherwise than for the purposes of a hospital or part of a hospital used for the treatment of persons suffering from mental disorder, the option shall cease to have effect unless in the case of an officer so employed as a result of being transferred under Article 77 of the Order the Department directs otherwise.

(2) Where a person who was not a retired civil servant became an officer of an employing authority on 1st April 1971 having immediately before that date been employed at the Artificial Limbs and Appliances Centre, Tyrone House, Ormeau Avenue, Belfast, he may notify his employing authority in writing within 3 months of becoming an officer, or within such longer period as the Department may in any particular case allow, that he does not wish to avail himself of the benefits provided by these regulations, and in that event the provisions of this Part shall apply in relation to

him in like manner as they apply to and in respect of a person to whom the provisions of paragraph (1) apply.

(3) Where a person, on being transferred under the Order, became an officer before 6th April 1978 in the employment of a Health and Social Services Board, the Agency or the Staffs Council, and who immediately before becoming such an officer was subject to the provisions of—

- (a) the Act of 1865;
- (b) the Act of 1869;
- (c) the Act of 1943;
- (d) the Federated Superannuation Scheme for Nurses and Hospital Officers;
- (e) the Local Government Superannuation Regulations; or
- (f) any scheme approved by the Department under regulation 16(3)(e)(vi) of the 1962 regulations(a),

then, if he notified the employing authority in writing within 3 months of having become an officer or within such longer period as the Department may in any particular case allow, that he did not wish to avail himself of the benefits provided by these regulations, the provisions of this Part shall apply to and in respect of him, as if, in relation to his employment as such officer, they required him to make the like contributions (if any) as he would have been liable to make and conferred upon him rights corresponding with those which he would have enjoyed if he had remained subject to the enactment or scheme previously applicable in his case, and those provisions shall continue so to apply to and in respect of him so long as he is an officer of any employing authority without a break in employment of 12 months or more and without having become entitled during any break in employment to participate in superannuation benefits by virtue of employment otherwise than under an employing authority:

Provided that—

- (a) the provisions of this paragraph shall apply to an officer who attains pensionable age within 3 years after being transferred under the Order as if on becoming an officer he had exercised the option thereby conferred to retain rights corresponding with those enjoyed by him prior to transfer;
- (b) in the case of an officer who was transferred under the Order, any regulations made under Article 9 of the Superannuation (Northern Ireland) Order 1972 and having effect as from 1st October 1973 shall, for the purpose of this paragraph, be deemed to have applied to him immediately before he was so transferred.

(4) Where a person has become entitled to a pension under these regulations or the previous regulations in pursuance of an option exercised, or which is treated as having been exercised, under this regulation, or under the corresponding provision of the previous regulations, the conditions prescribed by regulation 38 shall not apply in relation thereto, but in lieu thereof any corresponding conditions prescribed by the enactment or scheme to which he was formerly subject shall attach to the pension as if it had been granted under that enactment or scheme, and as if any employment as an officer, whether before or after his becoming entitled to the pension, were employment in the capacity in which he was subject to the said enactment or scheme.

(5) Notwithstanding paragraphs (1) to (4), if a person in pursuance of an option exercised, or which is treated as having been exercised, under this regulation or the corresponding provision of the previous regulations has become entitled to a benefit, other than a return of contributions, payable under these regulations or the 1962 regulations, and thereafter enters employment in which he is an officer, then, if he

(a) Revoked by regulation 8 of S.R. 1976 No. 46

cannot in that employment become entitled to any further benefit in pursuance of the aforesaid option, Part II shall apply to him in respect of that employment as if he had not exercised the aforesaid option:

Provided that paragraph (4), in so far as it excludes the application to him of regulation 38 and provides that in lieu thereof any corresponding conditions prescribed by the enactment or scheme to which he was formerly subject shall attach to his pension as if it had been granted under that enactment or scheme, shall continue to apply in relation to any pension payable in pursuance of the aforesaid option under these regulations or the 1962 regulations in respect of his former employment.

- (6) Notwithstanding anything in this regulation,
- (a) regulations 21(5) and 34(4) shall apply to an officer to whom this regulation applies;
 - (b) where this regulation applies to an officer employed in a part-time capacity, regulation 32 shall apply for the calculation of his service in that employment and proviso (f) to regulation 33(1) shall apply for the calculation of his average remuneration in respect of that service;
 - (c) the provisions of regulations 55 and 58 shall apply to an officer to whom this regulation applies in lieu of any corresponding provisions in the relevant enactment or scheme;
 - (d) where any benefit payable to or in respect of an officer to whom this regulation applies is calculated by reference to the annual average of his remuneration over a final period of his service, regulation 31(2) shall, except where the enactment or scheme applicable in his case contains a corresponding provision, apply in respect of any part of a year of his service;
 - (e) where such a benefit as is referred to in sub-paragraph (d) becomes payable on or after 29th July 1983 the annual average of the officer's remuneration over a final period of his service shall be uprated to equal his remuneration as ascertained under the provision of the enactment or scheme applicable in his case in respect of his final year of paid employment which reckons for the calculation of benefit in accordance with sub-paragraph (d):

Provided that—

- (i) the provisions contained in provisos (a) and (i) to regulation 33(1) shall be applicable in determining the officer's remuneration in respect of his final year of paid employment;
 - (ii) where a person ceased to be an officer to whom this regulation applies before 29th July 1983 the benefit shall be uprated by such a factor as in the opinion of the Department represents the upward movement (if any) in the cost of living from the mid-point of the final period of his service to a point 6 months before the end of that period;
- (f) where a person dies and at the time of his death he was entitled to a pension, or was an officer and able to reckon not less than 5 years' reckonable service, or was a person who had ceased to be an officer within 12 months before his death after completing 5 years' reckonable service and not having received a return of contributions or become entitled to any other benefits (including a transfer payment) under these regulations, and his pension was or would have been calculated by reference to service and the annual average of remuneration over a final period of service, his widow shall be entitled to receive from the Department a widow's pension and the annual amount of such widow's pension shall be—
- (i) where the relevant enactment or scheme made no provision for the payment of a widow's pension, an amount equal to the aggregate of the following amounts namely, an amount equal to 1/6 of the annual amount

of the husband's pension (calculated by reference to remuneration uprated in accordance with sub-paragraph (e)) in respect of his service before 25th March 1972 and an amount equal to 1/4 of the annual amount of his pension so calculated in respect of the remainder of his service, or

- (ii) where the relevant enactment or scheme made provision for the payment of a widow's pension, an amount equal to the aggregate of the following amounts, namely, an amount equal to the aggregate amount specified in sub-paragraph (i) and an amount equal to 1/2 of the annual amount of the widow's pension (calculated by reference to remuneration uprated in accordance with sub-paragraph (e)) which apart from this sub-paragraph would have been payable under the relevant enactment or scheme,

and, except as provided in proviso (i), a widow's pension shall not be payable at the rate specified in the relevant enactment or scheme:

Provided that—

- (i) if at any time a greater amount would be payable by way of a widow's pension (calculated by reference to remuneration uprated in accordance with sub-paragraph (e)) apart from this sub-paragraph, that widow's pension as so calculated shall be payable in lieu of any payment under this sub-paragraph;
 - (ii) for the purposes of this sub-paragraph, a pension payable to a widow in consequence of her husband surrendering part of his pension shall not be regarded as a widow's pension; and
 - (iii) the provisions of regulation 12(7) and of the provisos to regulation 12(1) shall apply to so much of a payment under this sub-paragraph as is calculated under sub-paragraph (i);
- (g) except where the provisions of the enactment or scheme applying to an officer by virtue of this regulation provide that a pension shall not be reduced in respect of further employment, regulation 36 shall apply to a pension payable in pursuance of this regulation, as if the reference in paragraph 4(e)(ii) of regulation 36 to average remuneration were a reference to average remuneration uprated in accordance with sub-paragraph (e) except that proviso (i) to regulation 33(1), which would otherwise apply by virtue of proviso (i) to sub-paragraph (e), shall not apply in relation to such employment which commenced, or which by virtue of regulation 36(3)(b) is deemed to have commenced on or after 29th July 1983;
 - (h) where on or after 25th March 1976 an officer to whom this regulation applies suffers a reduction in remuneration and would be entitled under the relevant enactment or scheme to continue making contributions as if his remuneration had not been reduced he shall instead be entitled to benefits under regulation 7(1)(a)(v) in respect of the service reckonable by him immediately before such reduction;
 - (i) for the purpose of calculating the average remuneration of an officer to whom proviso (ii) to sub-paragraph (e) applies, account shall be taken of the provisions of proviso (i) to regulation 33(1); and
 - (j) where the officer's contributions or benefits are subject to the modification provisions of the National Insurance Act (Northern Ireland) 1946(a), those provisions shall cease to apply in respect of service on or after 1st April 1980.

Additional pension for widows of certain optants

41.—(1) A male officer to whom regulation 40 applies may within 12 months of 25th March 1976 if he was then a married officer or, in any other case, within 12 months of his becoming a married officer after that date, elect to make payment either in accordance with paragraph (2) or paragraphs (2) and (3), and if he makes such payment and at his death was—

- (a) entitled to a pension under the relevant provisions; or
- (b) an officer and able to reckon not less than 5 years' contributing service under the relevant provisions; or
- (c) a person who ceased to be an officer within 12 months before his death after completing 5 years' contributing service and not having received a return of contributions or become entitled to any other benefit (including a transfer payment) under these regulations,

an annual widow's pension calculated in accordance with this regulation shall become payable to his widow and subject to the provisions of paragraphs (2), (3) and (4) such election shall continue to have effect so long as he is an officer to whom the said regulation 40 applies:

Provided that—

- (i) the time limit of 12 months within which an officer may make an election may be extended to such longer period as the Department may in any particular case allow, in which event the Department may vary the provisions of Schedule 9 in such manner as it considers to be appropriate;
- (ii) the provisions of regulation 12(7) shall apply in relation to a widow's pension payable under this regulation;
- (iii) in the circumstances mentioned in either proviso (i) or (ii) to regulation 12(1) a widow's pension shall not become payable under this regulation except in respect of service on or after 6th April 1978;
- (iv) a widow's pension under this regulation shall not be payable in respect of more than 45 years' service and no account shall be taken of service before age 60 in excess of 40 years;
- (v) an officer shall not be permitted to elect under this regulation during any period when he is on leave of absence from duty;
- (vi) a transferred officer who became such officer in consequence of the Order may only make an election to make payment in accordance with paragraph (3).

(2) Where an officer has elected to make payment in accordance with this paragraph, he shall be required to pay contributions of an amount equal to 1½ per cent of his remuneration for the time being and such contributions shall be payable as from the material date until either—

(a) he is no longer entitled to reckon further service under the relevant provisions, or

(b) he becomes a widower or is divorced or judicially separated from his wife, whichever first occurs, and the amount of the widow's pension payable under paragraph (1) shall be an amount equal to 1/320th of her husband's average remuneration in respect of each year of reckonable service during which he has paid the contributions required under this paragraph and proportionately for any part-year, so, however, that no contribution shall be payable under this paragraph for any period during which contributions are payable under regulation 42(3).

(3) Where an officer has elected to make payment in accordance with this paragraph, he shall be required to do so in accordance with the provisions of Schedule 9 in respect of the whole or any part of the service reckonable by him on the material

date under the relevant provisions and the amount of the widow's pension payable under paragraph (1) shall be an amount equal to $\frac{1}{320}$ th of her husband's average remuneration for each year of reckonable service in respect of which he made payment under this paragraph and proportionately for any part-year:

Provided that—

- (i) an officer may not elect to make payment in accordance with this paragraph in respect of any period for which he has previously made payment in accordance with this paragraph or paragraph (2);
 - (ii) if an officer whose remuneration is calculated under paragraph 5(3) of Schedule 9 ceases to be an officer during the period therein mentioned his election under this regulation shall be cancelled;
 - (iii) an officer shall not continue to make payments in accordance with this paragraph if he becomes a widower or becomes divorced or judicially separated from his wife and in such event the provisions of paragraph (4)(b) shall apply;
 - (iv) a transferred officer who became such officer in consequence of the Order may not elect to make payment in accordance with this paragraph in respect of any service for which a widow's pension may become payable on his death at the rate of $\frac{1}{160}$ th of his pensionable remuneration;
 - (v) a widow's pension calculated in the manner provided in this paragraph shall not be payable to a widow during any period when she is entitled to receive a widow's short-term pension under the provisions of the Local Government Superannuation Regulations.
- (4) Where any payments in accordance with paragraph (3) remain to be made by an officer and at least one payment has been made by him—
- (a) in the event of his becoming entitled under the relevant provisions to a pension payable on account of his being permanently incapable of discharging the duties of his employment by reason of physical or mental infirmity or dying whilst an officer, for the purpose of the said paragraph (3) he shall be deemed to have completed the remaining payments;
 - (b) in the event of his ceasing to be an officer in circumstances other than those mentioned in sub-paragraph (a), the widow's pension which on his death may become payable under this regulation shall be calculated on that proportion of his reckonable service in respect of which he elected to make payment in accordance with the said paragraph (3) as the amount paid bears to the total amount due to be paid, except that if within 6 months of so ceasing to be an officer, or such longer period as the Department may in any particular case allow, he pays the balance of the total amount due to be paid, such widow's pension shall be calculated on the service in respect of which he elected to make the said payment, so, however, the balance of the total amount due to be paid shall be reduced by the amount added under paragraph 4 of Schedule 9 in respect of the period between the date on which he so ceased to be an officer and the date on which the final payment was due; or
 - (c) if sub-paragraph (b) has applied to him and he again becomes an officer, he may within 3 months of becoming such an officer or within such longer period as the Department may in any particular case allow, make those payments that he would have made had he not ceased to be an officer and unless he does so he shall not continue making payments in accordance with the said paragraph (3).
- (5) In this regulation—
- (a) "remuneration" has the meaning ascribed to it in regulation 3, modified to

such extent as the Department considers appropriate having regard to the relevant provisions;

- (b) "average remuneration" means the average of his remuneration (as defined in sub-paragraph (a)) calculated in accordance with regulation 33; and
- (c) "material date" means the date on which an officer's election under paragraph (1) is received by his employing authority.

Minimum benefits for certain optants

42.—(1) This regulation shall apply in respect of every officer in contracted-out employment to whom the provisions of regulation 40 or 44 apply.

(2) An officer to whom this regulation applies shall be entitled at pensionable age to the pension specified in the relevant provisions or in the relevant scheme or arrangements applying in his case and such pension shall be at the rate of not less than 1/80th of his average remuneration (determined in accordance with regulation 33) in respect of each year of service in contracted-out employment, but he shall not become entitled to receive payment of such pension until he ceases to be an officer.

(3) Subject to paragraph (4), a male officer to whom this regulation applies shall, as from 6th April 1978, pay an additional contribution of 1½ per cent of his remuneration for the time being for so long as he remains an officer to whom the provisions of the said regulation 40 or 44 apply and has not attained pensionable age.

(4) Paragraph (3) shall not apply to an officer in respect of whom, apart from this regulation and regulation 41, a widow's pension might become payable at a rate of not less than 1/160th of his average remuneration (as defined in regulation 33) in respect of each year of service on or after 6th April 1978.

(5) Where an officer to whom paragraph (3) applies dies either—

(a) after becoming entitled to a pension under these regulations; or

(b) after having completed 5 years' service; or

(c) while in employment as an officer having attained pensionable age or such earlier age on which, under the relevant provisions applying in his case, he could have qualified for a pension on retirement,

his widow shall be entitled to a pension and regulation 12(7) shall apply to such pension.

(6) The widow's pension payable in respect of contributions paid under paragraph (3) shall be at a rate of 1/320th of the officer's average remuneration (determined in accordance with regulation 33) in respect of each year of employment during which such contributions were paid (periods of part-time employment being reduced to their equivalent whole-time length), provided that the aggregate widow's pension payable under these regulations in respect of any such period shall be at a rate of not less than 1/160th of the officer's average remuneration in respect of each year of such employment.

(7) Any relevant provision relating to the payment of contributions to secure a widow's pension shall not apply in respect of any period during which contributions are paid under paragraph (3).

(8) Where the provisions of regulation 36, 51, 55 or 58 apply to the pension payable under these regulations, they shall similarly apply to a pension specified in paragraph (2), and that paragraph shall not apply to any pension in respect of which the Department has discharged its liability by a payment under regulation 74 or a relevant provision corresponding to regulation 16.

(9) No relevant provision for the allocation of part of a pension shall operate so as to enable the pension to be reduced below the amount specified in paragraph 1(c) of Schedule 1.

Benefits of officers who did not exercise option to retain previous rights or in whose case options have ceased to have effect

43.—(1) The provisions of this regulation shall apply in the case of any officer—

- (a) to whom regulation 40(3) applies and who did not exercise the option conferred by that paragraph; or
- (b) to whom any provision of the previous regulations corresponding with regulation 40(3) applied, or to whom regulation 22(1) of the 1948 regulations applied, and who did not exercise the option conferred by any of those provisions; or
- (c) who exercised any option mentioned in the preceding provisions of this paragraph but in whose case the option exercised has ceased to have effect:

Provided that this paragraph shall not apply to any person who, immediately before he first became an officer was subject to an enactment or scheme which included a title to a death gratuity among its benefits.

(2) An officer who was transferred under the Order to the employment of an employing authority shall, notwithstanding anything in this regulation, receive the same amount (if any) by way of increase in retiring allowance under this regulation as he would have received under the Local Government Superannuation Regulations had he not been so transferred.

(3) The amount of any retiring allowance payable to any officer to whom paragraph (1) applies shall be increased, in the case of an officer who has not exercised an option, in respect of any period prior to his becoming an officer, or, in the case of an officer who has exercised an option but in whose case the option has ceased to have effect, in respect of any period prior to the date on which the option ceased to have effect, by—

- (i) 1½ per cent in respect of each complete year of the aggregate of his contributing service reckonable in respect of that period; and
- (ii) ¾ per cent in respect of each year of his non-contributing service so reckonable, such non-contributing service being calculated by deducting such complete years of contributing service reckonable as in (i) aforesaid, from the aggregate of all his service reckonable in respect of that period, so, however, that if such non-contributing service, as so calculated, includes a fraction of a year, that fraction shall, if it exceeds one half of a year be treated as one complete year, and any other fraction shall be disregarded:

Provided that for the purposes of this regulation, the retiring allowance payable to an officer shall be deemed to be an amount equal to the annual amount of his pension under these regulations, any reduction under regulation 51 being disregarded.

Persons subject to non-statutory superannuation schemes and arrangements

44.—(1) Where before the date of coming into operation of these regulations the Department was under a liability imposed by regulation 38(1) or (4) of the 1962 regulations to pay the contributions authorised or required by the Federated Superannuation Scheme for Nurses and Hospital Officers to be paid by the employer then, if the officer in respect of whom that liability was incurred, has remained and continues to remain without a break of more than one month at any one time an officer in the employment of any employing authority, the Department shall pay the contributions authorised or required by the Federated Superannuation Scheme for Nurses and Hospital Officers to be paid by the employer and in that event the officer shall not as such officer be subject to any provisions of these regulations except those contained in this regulation.

(2) Where before the date of coming into operation of these regulations the Department was carrying out the relevant scheme or arrangements referred to in

paragraph (2) or (5) of regulation 38 of the 1962 regulations in exercise of the discretion conferred thereby, then, if the officer in respect of whom the Department was carrying out the relevant scheme or arrangements has remained and continues to remain without a break of more than one month at any one time an officer in the employment of any employing authority, the Department may carry out the relevant scheme or arrangements, and in any case in which the Department exercises the discretion conferred by this paragraph, the officer concerned shall not as such officer be subject to any provisions of these regulations except those contained in this regulation.

(3) Subject to the provisions of paragraphs (1) and (2), where a person has before the date of coming into operation of these regulations become an officer, having within 12 months before becoming such officer been participating in the superannuation scheme mentioned in paragraph (1), then, if the officer so requested the employing authority in writing within 3 months after becoming an officer, the Department may pay the contributions authorised or required by the scheme to be paid by the employer, and in that event the officer shall not be subject to any provisions of these regulations except those contained in this regulation:

Provided that this paragraph shall apply only if the person has remained and continues to remain without a break of more than one month at any one time an officer in the employment of any employing authority.

(4) Where any person became an officer of an employing authority in consequence of the acquisition of premises by the Authority under section 67 of the Act or a person transferred under Article 77 of the Order then, if on such earlier date as the Department may determine and immediately before becoming an officer he was participating in the superannuation scheme mentioned in paragraph (1), and if the officer so requested the employing authority in writing within 3 months after becoming such officer, the Department shall, if the person remained without a break of more than one month at any one time an officer in the employment of any employing authority, pay the contributions authorised or required by the scheme to be paid by the employer, other than contributions in respect of any policy of insurance taken out under the scheme between such earlier date as aforesaid and the date of acquisition or transfer, and in that event the officer shall not be subject to any provisions of these regulations except those contained in this regulation, and the Department may, if it thinks fit, also pay the contributions authorised or required by the scheme to be paid by the employer in respect of any policy of insurance taken out under the scheme after such earlier date as aforesaid:

Provided that this paragraph shall not apply to a person who becomes an officer on or after 6th April 1978.

(5) Where any such person as is mentioned in paragraph (4) immediately before becoming an officer, was participating in any superannuation scheme of a similar character to the scheme mentioned in paragraph (1) or was participating or had reasonable expectations of participating in any other scheme or arrangements for the provision of superannuation benefits, then, if the officer so requests the employing authority in writing within 3 months after becoming an officer, the Department shall consider all the circumstances of the case, including any change which may have occurred on the person's becoming an officer in the emoluments previously enjoyed by him, and if it is satisfied that undue hardship would otherwise result, the Department shall, if any relevant scheme continues to be administered by a body, subject to such arrangements as it may have made with that body, pay the contributions authorised or required by that scheme to be paid by the employer, and in any case in which any relevant scheme continues to be administered by a body but the Department has been unable to make arrangements with that body and in any other case the Department may carry out the relevant scheme or arrangements, and in that event the officer shall not be subject to any provisions of these regulations except those contained in this regulation:

Provided that this paragraph shall apply only if the person remains without a break of more than one month at any one time an officer in the employment of any employing authority and shall not apply to a person who becomes an officer on or after 6th April 1978.

(6) Subject to the provisions of paragraphs (4) and (5), where a person becomes an officer of an employing authority, having within 12 months before becoming such an officer and in consequence of a request made by him to the Department under this regulation or the corresponding provision of the previous regulations, been participating in the scheme or other arrangements for the provision of superannuation benefits previously applicable to him, then, if the officer so requests the employing authority in writing within 3 months after becoming an officer or within such longer period as the Department may in any particular case allow, the Department may, if any relevant scheme continues to be administered by a body, subject to such arrangements as it may have made with that body, pay the contributions authorised or required by the scheme to be paid by the employer, and in any case in which any relevant scheme continues to be administered by a body but the Department has been unable to make arrangements with that body and in any other case the Department may carry out the relevant scheme or arrangements, and in that event the officer shall not as such officer be subject to any provisions of these regulations except those contained in this regulation:

Provided that this paragraph shall apply only if the person remains without a break of more than a month at any one time an officer in the employment of any employing authority.

(7) Where in respect of any person contributions are paid by the Department under the foregoing provisions of this regulation or the Department carries out any such scheme or arrangements as are referred to in those provisions, the employing authority shall deduct from that person's remuneration the amount of any contributions required by the scheme or under the arrangements to be paid by the employee, and shall pay the same to the Department, together with the like contributions which they would have paid in respect of that person under regulation 6 but for the provisions of this regulation.

(8) Notwithstanding the preceding provisions of this regulation, where a person—

- (a) in consequence of a request made by him to the Department under this regulation or the corresponding provision of the previous regulations has remained subject to the scheme or other arrangements for the provision of superannuation benefits applicable to him before he became an officer; and
- (b) after having become entitled to a benefit under any such scheme or arrangements as aforesaid enters employment in which he is an officer, then, if in that employment—
 - (i) he cannot become entitled to any further benefit under such scheme or other arrangements as aforesaid; and
 - (ii) the benefit to which he has become entitled is liable to be reduced or suspended in consequence of his having entered the employment in which he is an officer,

Part II shall apply to him in that employment as if he had not elected to remain subject to the scheme or other arrangements as aforesaid.

(9) In carrying out any relevant scheme or arrangements under this regulation, the Department shall do so subject to the modification provided by regulation 42 and may, in any particular case, do so subject to any of the modifications provided by this paragraph—

- (a) where the scheme or arrangements provide for a person's benefits to be calculated by reference to his service and remuneration, any service in a part-time capacity may be counted at its equivalent whole-time length and the remuneration for such service may be taken to be its whole-time equivalent;

- (b) where the benefits under the scheme or arrangement are to be paid by the Department and a person ceases in the circumstances set out in regulation 7(5) to be an officer to whom this regulation applies, such benefits as are provided by that paragraph may be paid to him;
- (c) where the benefits under the scheme or arrangements, or any part of such benefits, are to be paid by the Department, it may apply, with the necessary changes, the following provisions—
 - (i) the provisions of regulation 40(6)(d) and (e) in any case where the scheme or arrangements provide for any benefit payable to or in respect of a person to be calculated by reference to the annual average of his remuneration over a final period of his service,
 - (ii) the provisions of regulation 40(6)(f) to the widow of a person who dies and who at the time of his death was either entitled to a pension, or was an officer and able to reckon not less than 5 years' reckonable service, or was a person who had ceased to be an officer within 12 months before his death after completing 5 years' reckonable service and not having received a return of contributions or become entitled to any other benefit (including a transfer payment) under these regulations, and whose pension was or would have been calculated by reference to service and the annual average of remuneration over a final period of service,
 - (iii) the remaining provisions of regulation 40(6);
- (d) where the benefits under the scheme or arrangements, or any part of such benefits, are payable by the Department and any benefit payable thereunder to or in respect of a person is calculated by reference to the annual average of his remuneration over a final period of his service, the Department may apply, with the necessary changes, the provisions of regulation 41 to a person to whom this regulation applies; and
- (e) where any remuneration which has been awarded to an officer to whom this regulation applies or to which he was entitled under his conditions of employment has been withheld or deferred in the national interest the Department may pay, in addition to the contributions mentioned in this regulation, an amount equal to the contributions which would have been payable both by the employer and the officer on the remuneration so withheld or deferred had it been paid.

Supplementary payments in the case of certain officers.

45.—(1) The provisions of this regulation shall apply in the case of any person (not being a person to whom regulation 44 applies) who, on being transferred under the Act, or in consequence of the acquisition of premises by the Authority under section 67 of the Act, became an officer, and who had been engaged, for not less than 10 years prior to his becoming an officer, in employment solely or mainly at or for the purposes of premises which have been transferred to or acquired by the Authority under the Act:

Provided that if he left any such employment as aforesaid in order to undertake war service or immediately after leaving that employment became engaged in national service and within 6 months after the termination of that service returned to any such employment as aforesaid, the period of that service shall be treated as if it were such employment as aforesaid.

(2) If any person to whom this regulation applies was not, immediately before becoming an officer, participating in superannuation benefits, or was so participating otherwise than under the Act of 1865, the Act of 1869, the Act of 1909 or the Act of 1943, and if on 19th March 1984 (or such later date as the Department may have determined in the case of a person who became an officer on the acquisition of

premises by the Authority as aforesaid), and immediately before becoming an officer, he had reasonable expectations that on his retirement from his employment or on his death superannuation benefits would become payable to or in respect of him, then, unless those benefits were secured to him as such participant as aforesaid, and on becoming an officer he received some benefit on account thereof, if he remains, and in the case of a person who became an officer before the date of coming into operation of these regulations has remained, without a break in employment of 12 months or more at any time in any of the following employments:—

- (a) employment as an officer of any employing authority; or
- (b) in the case of a person who has entered employment in which he is a participant in a health service scheme in respect of whom the Department has made a transfer payment, employment in the health service of England and Wales, Scotland or the Isle of Man; or
- (c) in the case of a person who has entered employment subject to the Belfast Corporation Superannuation scheme or the Local Government Superannuation Regulations in respect of whom the Department has made a transfer payment, employment subject to that scheme or those regulations during which he has remained a member of the medical, dental or nursing staff of a health authority, or a welfare authority; or
- (d) in the case of a person who has entered employment in which he has become a contributory employee or local Act contributor in respect of whom the Department has made a transfer payment, employment as a person to whom regulation 21(1) of the English or Scottish Local Government regulations 1954, or regulation 22(1) of those regulations applies,

the Department, with the approval of the Department of Finance and Personnel, on or after his ceasing to be an officer, may make such payments, supplementary to any superannuation benefits which may become payable to or in respect of him, as the Department considers equitable, having regard to the fact that in the calculation of those superannuation benefits account is not taken of any such employment before he became an officer.

(3) For the purposes of paragraph (2), a person shall not be treated as having had a break in employment of 12 months or more if—

- (a) he left employment as an officer in order to undertake war service and returned to employment as an officer within 6 months after the termination of that service; or
- (b) he left employment as an officer, immediately thereafter became engaged in national service and returned to employment as an officer within 6 months after the termination of that service; or
- (c) he left employment as an officer in order to enter an approved course of study or training and re-entered employment as an officer without having had a break of 12 months or more since leaving his previous employment (no account being taken of the period of the said course of study or training), or within 6 months after the termination of national service in which he became engaged on completion of that course; or
- (d) he left employment as an officer and—
 - (i) immediately thereafter became engaged in national service;
 - (ii) on the termination of that service entered an approved course of study or training; and
 - (iii) re-entered employment as an officer within 6 months after the termination of his national service (no account being taken of the period of the said course of study or training).

(4) An officer shall not be entitled to have his case considered under this regulation unless within 3 months after the date on which he became an officer, or

such longer period as the Department may in any particular case allow, he furnished the employing authority with a written application for the purpose, and furnished the employing authority or the Department with such relevant information as may have been required.

Discretionary payments in respect of certain officers

46. Where by virtue of an option exercised, or which is treated as having been exercised, under these regulations or the previous regulations an officer is, at the time when he ceases to be employed as an officer, entitled to enjoy rights corresponding with those which he would have enjoyed if he had remained subject to the provisions of the Act of 1909, the Department may, with the approval of the Department of Finance and Personnel, on the officer's so ceasing to be employed make such payments to or in respect of him corresponding with any discretionary payments (additional to any payments to which the person would have been entitled as of right in respect of benefits conferred by the Act of 1909) which the Department considers would have been made to or in respect of the person if the person had remained subject to the Act of 1909.

Officers wishing to relinquish options

47.—(1) (a) Subject to the provisions of sub-paragraph (b), an officer to whom the provisions of regulation 40, 44 or 72 (as the case may be) apply may elect in writing to the Department that the provisions of that regulation shall cease to apply to him and upon the date on which his election is received by the Department, he shall be regarded as having ceased to be an officer to whom such regulation applies.

(b) In the case of an officer to whom the provisions of regulation 40 apply the election shall have effect as from 6th April 1978 where it is received within 6 months of that date or within such longer period as the Department may in any particular case allow.

(2) Any period during which regulation 40, 44 or 72 (as the case may be) applied to an officer before that regulation ceased to apply to him in consequence of his electing in accordance with paragraph (1) shall be reckonable as service for the purpose of determining whether any benefit is payable to or in respect of an officer under these regulations, but for no other purpose.

Holders of joint appointments

48. Where one of the holders of a joint appointment under an employing authority ceases to hold his appointment, and the appointment of the other is thereby determined, then that other, if he is an officer to whom this Part applies, and has attained the age of 50 years and completed 5 years' service, shall be entitled to receive a pension and retiring allowance, calculated in accordance with the provisions of regulation 8:

Provided that this regulation shall not apply in any case where a joint appointment is determined in consequence of the misconduct of one of the holders thereof.

Female Nurses, Physiotherapists, Midwives and Health Visitors

49. These regulations, in their application to females who for the whole of the last 5 years of service in the employment of an employing authority or in employment in which they are subject to a health service scheme are nurses, physiotherapists, midwives or health visitors, shall have effect subject to the modification that in regulation 7(1)(a)(ii) 55 years shall be substituted for 60 years.

Mental Health Officers

50.—(1) Subject to paragraph (3) these regulations, in their application to any mental health officer who has been employed for an aggregate period of at least 20

years as such an officer or as a person to whom the Act of 1909 applied as an established officer or servant of the first class or, if the Department so directs, as a person subject to a scheme approved by the Department either under regulation 16(3)(e)(vi) of the original 1962 regulations or for the purposes of this regulation, shall have effect subject to the following modifications:—

- (a) in regulation 7(1)(a)(ii) 55 years shall be substituted for 60 years; and
- (b) for the purposes of regulations 6(2), 8, 10(2), 11, 25 and 51(3) and (4), account shall be taken as if it were 2 years of every year in excess of 20 years of contributing service as a mental health officer or of contributing service so reckonable by such an officer by virtue of such employment as aforesaid other than contributing service which has become so reckonable in accordance with paragraph 5 of Part II of Schedule 2:

Provided that in any case in which it would be more advantageous to an officer to whom this paragraph applies or, if he has died, to a person entitled to any benefit in respect of him not to apply sub-paragraph (b), the provisions of the said sub-paragraph shall not apply to or in respect of him.

(2) Subject to paragraph (3) these regulations, in their application to any mental health officer who has been employed for an aggregate period of at least 20 years as such an officer and before he became such an officer as a person on the staff of a hospital used wholly or partly for the treatment of persons suffering from mental disorder, devoting the whole or substantially the whole of his time to the treatment or care of such persons, shall have effect subject to the following modifications:—

- (a) in regulation 7(1)(a)(ii) 55 years shall be substituted for 60 years; and
- (b) for the purposes of regulations 6(2), 8, 10(2), 11, 25 and 51(3) and (4), account shall be taken as if it were 2 years of every year of contributing service as a mental health officer rendered after attainment of the age of 50 years, or after the date on which he first became subject to this paragraph or the corresponding provision of the previous regulations whichever is the later:

Provided that, in any case in which it would be more advantageous to an officer to whom this paragraph applies or, if he has died, to a person entitled to any benefit in respect of him not to apply sub-paragraph (b), the provisions of the said sub-paragraph shall not apply to or in respect of him.

(3) If, but for this paragraph, both paragraphs (1) and (2) would apply to a mental health officer, whichever of the said paragraphs as is more advantageous to the officer, or if he has died, to a person entitled to any benefit in respect of him, shall apply in his case.

(4) In reckoning the aggregate period of a mental health officer's employment for the purpose of this regulation account shall be taken as if it were a period of employment of any period of service which he is entitled to reckon by virtue of the exercise in relation to him of the power conferred by regulation 15(1) or (4) of the 1948 regulations.

Modification of benefits and obligations under these regulations in connection with the National Insurance Act (Northern Ireland) 1946

51.—(1) Subject to regulations 18(2) and 40 and the following paragraphs, the provisions of these regulations shall apply in respect of service before 1st April 1980 in relation to every officer, subject to the modifications contained in paragraph (2), and in relation to every person in receipt of a pension under these regulations, subject to the modifications contained in paragraph (3).

(2) The amount of the contributions to be paid by an officer under regulation 6 in respect of service before 1st April 1980 shall be reduced at the rate of £3.03 per

annum in the case of a man and a woman who is a nurse, mental health officer, physiotherapist, midwife or health visitor, and at the rate of £3.25 per annum in the case of any other woman:

Provided that—

- (a) in the case of a mental health officer who by virtue of regulation 50 is entitled to reckon any year of contributing service as such officer as if it were 2 years, the amount of the reductions for that year shall be doubled; and
- (b) in the case of an officer who is a self-employed person within the meaning of the National Insurance Act (Northern Ireland) 1946, the amount by which his contributions are to be reduced shall be doubled.

(3) As from the date on which an officer becomes entitled to a pension under these regulations, or, if on becoming entitled to such pension he has not reached pensionable age within the meaning of the National Insurance Act (Northern Ireland) 1946, as from the date on which he reaches that age, the pension shall be reduced in respect of service before 1st April 1980—

- (a) if he became an officer before 1st January 1974 and within 12 months after leaving employment in relation to which he was subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, or if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service, and remained an officer until becoming entitled to a pension, without any break of 12 months or more during no part of which he was a civil servant, a person in teaching service, a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, and if by virtue of the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, as the case may be, any superannuation allowance to which he might have become entitled under the scheme or enactment to which he was subject as aforesaid would have been reduced by reference to his age at the date on which the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, as the case may be, became applicable in relation to him—
 - (i) by the annual sum shown in the appropriate column of the relative table set out in Schedule 3 in relation to an age which corresponds with his age at the date on which the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, as the case may be, became applicable in relation to him, for each year of contributing service between that date and 31st March 1980; and
 - (ii) by one-half of the said annual sum for each year of non-contributing service between the said date and 31st March 1980;
- (b) if he became an officer before 1st January 1974 and within 12 months after leaving employment in which he was in teaching service, or if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service, and remained an officer until becoming entitled to a pension, without any break of 12 months or more during no part of which he was a civil servant, a person in teaching service, a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, and if by virtue of regulations made under section 66(4) of the National Insurance Act (Northern Ireland) 1946, modifying regulations under Article 11 of the Superannuation (Northern Ireland) Order

1972(a) would have been reduced by reference to his age at a given date—

- (i) by the annual sum shown in the appropriate column of the relative table set out in Schedule 3 in relation to an age which corresponds with his age at the date which was relevant for the purposes of the aforesaid regulations modifying regulations under Article 11 of the Superannuation (Northern Ireland) Order 1972 for each year of contributing service between that date and 31st March 1980; and
 - (ii) by one-half of the said annual sum for each year of non-contributing service between the said date and 31st March 1980;
- (c) if he became an officer before 1st January 1974 and within 12 months after leaving employment in relation to which he was subject to the Act of 1937 or a local Act scheme, as modified by regulations made under section 69(4) of the National Insurance Act 1946(b), or if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service, and remained an officer until becoming entitled to a pension, without any break of 12 months or more during no part of which he was a civil servant, a person in teaching service, a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, and if by virtue of the said regulations or regulations made under section 1 of the Act of 1953 or a local Act scheme any superannuation allowance to which he might have become entitled under the enactment to which he was subject as aforesaid would have been reduced by reference to his age at the material date—
- (i) by the annual sum shown in the appropriate column of the relative table set out in Schedule 3 in relation to an age which corresponds with his age at the material date, for each year of contributing service on and after that date or in respect of which he paid reduced contributions in pursuance of a scheme (hereinafter called a "pre-existing scheme") made under section 28(3) of the Widows', Orphans' and Old Age Contributory Pensions Act 1936(c), or the corresponding provisions of any Act repealed by that Act; and
 - (ii) by one-half of the said annual sum for each year of non-contributing service between the said date and 31st March 1980;
- (d) if, not being such a person as aforesaid, he became an officer in consequence of the acquisition of premises by the Authority under section 67 of the Act or was such a person as is mentioned in paragraph (9), and remained an officer without any break of 12 months or more during no part of which he was a civil servant, a person in teaching service, a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations—
- (i) by the annual sum shown in the appropriate column of the relative table set out in Schedule 3 in relation to an age which corresponds with his age at the appointed day or at the date on which he became an officer, whichever was the later, for each year of contributing service between the appointed day, or on and after the date on which he became an officer, whichever was the later and 31st March 1980; and
 - (ii) by one-half of the said annual sum for each year of non-contributing service between the said date and 31st March 1980; and

(a) 1972/1073 (N.I. 10)

(b) 1946 c. 67 (9 & 10 Geo. 6)

(c) 1936 c. 32 (26 Geo. 5 & 1 Edw. 8)

- (e) in any other case, by the sum of £1·70 per annum for each year of contributing service between the appointed day and 31st March 1980 and by the sum of 85 pence per annum for each year of non-contributing service between that day and 31st March 1980:

Provided that—

- (i) in the case of an officer (other than an officer to whom paragraph (9) applies) who, within 12 months before becoming an officer had been subject to the Act of 1943, or had been subject to the Belfast Corporation Superannuation Scheme and had, immediately before becoming subject to that scheme, been subject to the Act of 1943, sub-paragraph (e) shall have effect as if the references to “service between the appointed day and 31st March 1980” and “service between that day and 31st March 1980” were references respectively to “service before, on and after the appointed day” and “service before, on and after that day”;
- (ii) for the purpose of calculating the amount of any reduction under this paragraph, any period of contributing service which an officer had elected to purchase before 1st April 1980 and which is added to his service by virtue of regulation 22A of the 1962 regulations(a) shall be deemed to be a period of service after the material date or the appointed day, as the case may be, during which he paid contributions reduced under this regulation;
- (iii) if a person, having paid reduced contributions for any period in pursuance of a pre-existing scheme has, in pursuance of that scheme, paid a sum representing the difference between those reduced contributions and the sum he would have contributed had his contributions not been reduced, his service during that period shall not for the purposes of sub-paragraph (c) be treated as service in respect of which reduced contributions were paid;
- (iv) if a person is entitled to reckon any prior period of employment or any period of war service or national service for the purpose of calculating the pension to which he has become entitled, otherwise than as provided in Schedule 2 then, if the period so reckonable was a period during which he paid contributions at an unreduced rate, his pension, in so far as it falls to be calculated by reference to that service, shall not be reduced under the provisions of this regulation;
- (v) if a person who enters employment as an officer on or after 1st April 1980 is entitled to reckon a period of contributing service calculated in accordance with Part II of Schedule 2 then his pension insofar as it falls to be calculated by reference to that service shall not be reduced under the provisions of this regulation; and
- (vi) the total amount of the reduction shall in no case exceed £67·75 per annum.

(4) In the case of an officer who on completing 45 years’ contributing service, or 45 years’ contributing service and non-contributing service, the non-contributing service being reckoned at half its length, would, if he then ceased to be employed, be entitled to a pension, any further service shall be disregarded for the purposes of paragraph (3), if that paragraph subsequently becomes applicable in relation to him.

(5) Paragraph (1) shall not apply in the case of any person who, in pursuance of section 68(3)(a) of the National Insurance Act (Northern Ireland) 1946 (which contains transitional provisions as to certain classes of persons), is deemed to attain pensionable age within the meaning of that Act on the expiration of 10 years from the appointed day for the purposes of that section.

(a) The relevant amending regulations are: S.R. 1974 No. 327 and 1978 No. 301

(6) Where a person is an officer in the part-time employment of 2 or more employing authorities, paragraph (1) shall only apply in relation to him in his employment under that employing authority which is treated as his employer for the purposes of the National Insurance Act (Northern Ireland) 1946.

(7) Where an officer in the part-time employment of one or more employing authorities is also employed in other employment in which he is not entitled to participate in superannuation benefits provided by these regulations, and his employer in that other employment is treated as his employer for the purposes of the National Insurance Act (Northern Ireland) 1946, paragraph (1) shall not apply, and in the event of his subsequently becoming an officer to whom that paragraph applies, no account shall be taken for the purposes of paragraph (3) of his service during the period in which this paragraph applied to him.

(8) Where a person has become an officer—

- (a) before 1st January 1974 and within 12 months after leaving employment in relation to which he was a civil servant, in teaching service, a contributory employee, a local Act contributor, subject to the Act of 1865, the Act of 1869, the Act of 1909, subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, or, if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service; and, having been—
- (b) in the case of a person who in the employment he has left was a civil servant, in teaching service, or subject to the Act of 1909, insured or deemed to have been insured under the National Health Insurance Acts (Northern Ireland) 1936 to 1938(a), as amended by the National Health Insurance and Contributory Pensions Act (Northern Ireland) 1941(b), or the Widows', Orphans' and Old Age Contributory Pensions Act (Northern Ireland) 1936(c), or an insured person for the purposes of the National Insurance Act (Northern Ireland) 1946, and also having been excepted from the provisions of any regulations made under section 66(4) of the National Insurance Act (Northern Ireland) 1946, modifying his position in superannuation as a civil servant, or the Act of 1909; or
- (c) in the case of a person who in the employment he has left was subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, an insured person for the purposes of the National Insurance Act (Northern Ireland) 1946, and also having been excepted from the operation of any provisions of the enactment to which he was subject modifying the benefits provided by the enactment in relation to any such insured person as aforesaid; or
- (d) in the case of a person who in the employment he has left was a contributory employee or a local Act contributor, insured or deemed to have been insured under the National Health Insurance Acts 1936 to 1938(d), as amended by the National Health Insurance, Contributory Pensions and Workmen's Compensation Act 1941(e), or the Widows', Orphans', and Old Age Contributory Pensions Act 1936, or an insured person for the purposes of the National Insurance Act 1946, and also having been excepted from the provisions of any regulations made under section 69(4) of the National Insurance Act 1946, modifying the Act of 1937 or a local Act scheme,

(a) 1936 c. 32 (26 Geo. 5 & 1 Edw. 8) cited together with 1937 c. 1 (N.I.) (1 & 2 Geo. 6) and 1938 c. 9 (N.I.) (2 Geo. 6) as the National Health Insurance Acts (Northern Ireland), 1936 to 1938

(b) 1941 c. 14 (N.I.)

(c) 1936 c. 32 (N.I.)

(d) 1936 c. 32 (26 Geo. 5 & 1 Edw. 8) cited together with 1937 c. 24 (1 Edw. 8 & 1 Geo. 6), 1937 c. 3 (1 & 2 Geo. 6) and 1938 c. 14 (1 & 2 Geo. 6) as the National Insurance Acts 1936 to 1938

(e) 1941 c. 39 (4 & 5 Geo. 6)

paragraph (1) shall not apply in relation to that person in any employment in which he is an officer if, since he first became an officer, there has been no period of 12 months or more throughout which he was not an officer of an employing authority, a civil servant, a person in teaching service, a contributory employee, a local Act contributor or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations.

(9) Where a person was an officer on the appointed day, or where a person was on war service or national service on the appointed day and became an officer within 6 months after the termination of that service, not being in either case a person who had elected that the provisions of any regulations made under section 66(4) of the National Insurance Act (Northern Ireland) 1946, modifying the Act of 1909, should apply to him in relation to any previous employment in which he was subject to the said Act of 1909, or had had an opportunity of so electing during a period which had expired, then, unless he gave notice in writing to his employing authority within 3 months after the appointed day or the date of his becoming an officer, as the case may be, that he wished regulation 30(1) of the 1948 regulations to apply in his case, paragraph (1) shall not apply in relation to him, if he has remained and continues to remain an officer without any break of 12 months or more during no part of which he was a civil servant, in teaching service, a contributory employee, a local Act contributor, a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations.

(10) If during any period an officer has not paid contributions under these regulations by reason of the fact that the amount of the reduction in his contributions provided for by this regulation equalled or exceeded the amount of his contributions, he shall nevertheless be deemed for the purpose of regulation 26(1)(a) to have made the contributions required by these regulations in respect of that period.

(11) Where a person between 1st July 1950 and 31st December 1973 (both dates inclusive) became an officer within 12 months after leaving such employment as is mentioned in regulation 16(3)(e)(vi) of the original 1962 regulations, or, if he left that employment in order to undertake war service or if immediately after leaving that employment he became engaged in national service, within 6 months after the termination of that service, or after 31st December 1973 became an officer within 12 months after leaving such employment as is mentioned in regulation 18(3) and in either employment he was an insured person within the meaning of the National Insurance Act (Northern Ireland) 1946, or any corresponding enactment in force in the part of Her Majesty's dominions in which he was employed, then—

(a) if he had been excepted from the operation of any provision (hereinafter called "the modification provision") of the scheme to which he was subject modifying the benefits provided by the scheme in relation to any such insured person as aforesaid, paragraph (1) shall not apply in relation to him so long as he is an officer without a break of 12 months or more at any one time, reckoned from the time when he left the employment of an employing authority (no account being taken of any period spent on an approved course of study or training which he entered after leaving that employment); and

(b) if he had not been so excepted—

(i) the provisions of this regulation shall apply to him as if any service which he is entitled to reckon under these regulations, being service in respect of employment of which account would have been taken under the modification provision for the purpose of reducing any benefit to which the person might have become entitled under the said scheme had he continued to be subject thereto, were contributing service rendered on or after the appointed day; and

(ii) if the modification provision modified any benefit to which he might have become entitled under the said scheme by reference to a table and to

his age at a given date, this regulation shall have effect as if he were a person to whom paragraph (3)(b) applied, except that the reference therein to his age at a given date shall be construed as a reference to his age at the date which was relevant for the purposes of the modification provision:

Provided that sub-paragraph (b)(ii) shall not apply to any person unless the modification provision, or any corresponding provision modifying the benefits provided by any superannuation scheme to which he was formerly subject in employment which was reckonable as service for the purposes of the scheme applicable to him in such employment as is mentioned in regulation 16(3)(e)(vi) of the original 1962 regulations, applied to him on or before the appointed day.

(12) For the purposes of paragraphs (3)(a), (b), (c) and (d) and (8) and (9) a person shall not be treated as having had such a break as is therein mentioned if—

- (a) he ceased at any time to be an officer, a contributory employee, a local Act contributor, a civil servant, a person in teaching service, or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, in order to undertake war service and re-entered employment in one of those capacities within 6 months after the termination of that service;
- (b) he ceased at any time to be an officer, a contributory employee, a local Act contributor, a civil servant, a person in teaching service, or a person subject to the Belfast Corporation Superannuation Scheme or the Local Government Superannuation Regulations, immediately after so ceasing became engaged in national service, and re-entered employment in one of those capacities within 6 months after the termination of that service;
- (c) he ceased at any time to be an officer in order to enter an approved course of study or training and re-entered employment as an officer without having had a break of 12 months or more since leaving his previous employment (no account being taken of the period of the said course of study or training), or within 6 months after the termination of national service in which he became engaged on completion of that course; or
- (d) he ceased at any time to be an officer and—
 - (i) immediately thereafter became engaged in national service;
 - (ii) on the termination of that service entered an approved course of study or training; and
 - (iii) re-entered employment as an officer within 6 months after the termination of his national service (no account being taken of the period of the said course of study or training).

(13) In this regulation—

(a) “the material date” means—

- (i) in relation to a person to whom paragraph (3)(c) applies (other than a person who was subject to the provisions relating to modification of retirement benefits contained in the English or Scottish Local Government regulations 1954, or who was subject to corresponding provisions contained in a local Act scheme), the date on which regulations made under section 69(4) of the National Insurance Act 1946, first applied to him; and
- (ii) in relation to a person to whom paragraph (3)(c) applies and who was subject to the said provisions in the English or Scottish Local Government regulations 1954, or corresponding provisions contained in a local Act scheme, the material date as defined in paragraph 1(1) of Schedule 3 to the English or Scottish Local Government regulations

1954, or, as the case may be, the corresponding date prescribed by the relevant local Act scheme; and

- (b) "superannuation allowance" includes a retirement benefit as defined in regulation 24 of the English or Scottish Local Government regulations 1954, and any corresponding benefit under a local Act scheme.

Modification of benefits and obligations under these regulations in connection with the Act of 1966

52. These regulations so far as they affect benefits and obligations in connection with the Act of 1966 shall have effect subject to the modifications set out in Schedule 10.

Modification of benefits to take account of benefits under the Pensions Order

53. Any pension payable under these regulations to a person in respect of a period for which a contributions equivalent premium has been paid and has not been recovered shall be reduced, as from pensionable age, by the amount of the guaranteed minimum pension to which he would have been entitled if that contributions equivalent premium had not been paid, and any widow's or widower's pension shall be reduced, as from the date it comes into payment, by one-half of that amount.

Avoidance of duplicate benefits

54. If the Department is of opinion that any service in respect of which a benefit is payable under these regulations has been or will be taken into account for the purpose of any other benefit which has or may become payable out of public funds, the Department may make such deduction from the benefit under these regulations as may appear to it to be equitable, in order to secure that there may not be payable in respect of the same service a benefit under these regulations as well as such other benefit as aforesaid.

Benefits not assignable

55.—(1) Subject to paragraph (2) and any statutory provision in that behalf a pension or other benefit to which an officer, or the spouse or dependant of an officer, becomes entitled under these regulations shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable or chargeable with his debts or other liabilities.

(2) Where a loss to public funds has occurred as a result of fraud, theft or misconduct committed by an officer in connection with his employment, the Department may withhold an amount from any return of contributions or other benefit payable to or in respect of the officer under these regulations and on so doing shall furnish the officer with a certificate showing the amount withheld and the effect on the return of contributions or other benefit:

Provided that—

- (a) the amount withheld from a benefit, including the capital value of the amounts withheld from annual payments, shall not exceed the amount of the loss,
- (b) no amount shall be withheld from such part of any benefit as is attributable to service otherwise than as an officer, and
- (c) in the event of any dispute as to the amount of the loss no amount shall be withheld unless the amount of the loss becomes enforceable under an order of a competent court.

Payments without proof of title

56. Where on the death of any person any sum not exceeding £1,500 is due to or in respect of that person under these regulations, the Department may dispense with

proof of the title of the personal representatives of that person and pay that sum to the personal representatives or to the person, or to or among any one or more of any persons, appearing to the Department on such evidence as it deems satisfactory to be entitled by law to a beneficial interest therein, or in the case of the illegitimacy of the deceased person or his children to or among such persons as the Department may think fit, and any persons to whom such a payment is made, and not the Department, shall thereafter be liable to account for any amount so paid.

Disposal of sums payable to certain physically disabled persons

57. Where any sum is payable under these regulations to any person (in this regulation referred to as "the beneficiary") who is certified by a registered medical practitioner to be unable by reason of physical disability to manage his affairs, the Department may pay to the person having the care of the beneficiary so much of the sum payable to the beneficiary as it thinks fit, and may pay the residue, if any, or such part thereof as the Department thinks fit, for or towards the maintenance and benefit of the spouse and relatives of the beneficiary.

Forfeiture of rights

58. The Department may direct that a person who is or has been an officer shall forfeit the whole or any part of any benefit which would apart from this regulation be payable to or in respect of that person under these regulations where that person has been convicted of an offence committed by him before such benefit becomes payable, being—

- (a) an offence in connection with his employment as an officer which is certified by the Secretary of State either to have been gravely injurious to the State or be liable to lead to serious loss of confidence in the public service, or
- (b) an offence of treason, or
- (c) one or more offences under the Official Secrets Acts 1911 to 1939(a) for which he has been sentenced on the same occasion to a term of imprisonment of, or to 2 or more consecutive terms amounting in the aggregate to, at least 10 years.

Accounts and actuarial investigations

59.—(1) The Department shall keep an account in such form and prepared in such manner as the Department of Finance and Personnel may approve of all revenue received and expenditure incurred by the Department under these regulations.

(2) The said account shall be subject to examination by the Comptroller and Auditor General.

(3) As at the expiration of every period of 5 years after 31st March 1969 there shall, unless the Department of Finance and Personnel otherwise determines, be an actuarial investigation by the Government Actuary of the assets and liabilities of the Department in respect of the benefits provided by the Department under these regulations, and the Government Actuary shall submit to the Department and to the Department of Finance and Personnel a report of every such investigation.

PART III

PROVISIONS RELATING TO MEDICAL AND DENTAL PRACTITIONERS

Application of regulations with modifications

60. Until he attains the age of 70 years, these regulations shall apply to every practitioner as if he were an officer in the employment of a Health and Social Services

(a) 1911 c. 28, 1920 c. 75 and 1939 c. 121 (2 & 3 Geo. 6)

Board and he shall not be regarded as having ceased to be such an officer whilst he remains on a list of such a Board.

Amendment of certain references to age

61. In relation to a practitioner—

(1) for regulation 6(2) there shall be substituted the following paragraph:—

“(2) The reference in paragraph (1), in the definition of “service” contained in regulation 3 and in regulation 33(1) to an officer mentioned in this paragraph is a reference to a practitioner who has attained the age of 65 years or such later age as the Department may in any particular case allow.”;

(2) for regulation 10(2)(a) and (b), there shall be substituted the following provision:—

“the age of 65 years or such later age as the Department may in any particular case allow”;

(3) for paragraph 9(3) of Schedule 1, there shall be substituted the following provision:—

“(3) The reference in sub-paragraph (1) to an officer mentioned in this paragraph is a reference to a practitioner who has attained the age of 65 years or such later age as the Department may in any particular case allow.”.

Meaning of “remuneration”

62.—(1) The following provisions of this regulation shall apply in the case of a practitioner other than an assistant practitioner in place of the definition of “remuneration” contained in regulation 3.

(2) In the case of a practitioner other than an assistant practitioner “remuneration” means—

- (i) all payments made by or on behalf of a Health and Social Services Board to the practitioner in respect of general medical services, general dental services, general ophthalmic services or pharmaceutical services provided by him, including any payments so made to him as a trainer in general practice,
- (ii) any charge made to a patient in respect of those services which the practitioner is authorised by or under any enactment to retain, other than a charge authorised by regulations made under Article 98 of and Schedule 15 to the Order, and
- (iii) any sums paid by a Health and Social Services Board to the practitioner out of a fund determined by reference to the number of beds in a hospital,

less such sum on account of practice expenses as may be appropriate in accordance with a formula laid down by the Department for the purpose and less the remuneration approved by the Department of any assistant practitioner in his employment:

Provided that—

- (a) if the practitioner is a dental practitioner and is a party with any other practitioner or practitioners to a partnership agreement then, if such practitioners give notice in writing to a Health and Social Services Board by whom they wish action to be taken under this proviso stating that for the purposes of these regulations they wish their total remuneration to be allocated between them in the manner provided by this proviso, their total remuneration as practitioners on the list of a Health and Social Services Board shall, for the purposes of these regulations and in respect of a period during which the notice is effective, be allocated between them on the basis of their shares in the partnership profits and accordingly in respect of any such period as aforesaid the remuneration of each of them shall be deemed to be such

proportion of the total remuneration of such practitioners as the proportion of his share in the partnership profits bears to the total proportion of the shares of such practitioners in those profits;

- (b) if the practitioner is a medical practitioner and is a party with any other practitioner or practitioners to a partnership agreement then—
- (i) if such practitioners give notice in writing to a Health and Social Services Board stating that for the purposes of these regulations they wish their total remuneration to be allocated between them in the manner provided by this paragraph of this proviso, their total remuneration as practitioners on the list of a Health and Social Services Board shall, for the purposes of these regulations and in respect of a period during which the notice is effective, be allocated between them on the basis of their shares in the partnership profits and accordingly in respect of any such period as aforesaid the remuneration of each of them shall be deemed to be such proportion of the total remuneration of such practitioners as the proportion of his share in the partnership profits bears to the total proportion of the shares of such practitioners in those profits;
 - (ii) if such practitioners give notice in writing to a Health and Social Services Board stating that for the purposes of these regulations they wish their total remuneration to be allocated between them in the manner provided by this paragraph of this proviso, their total remuneration as practitioners on the list of a Health and Social Services Board shall, for the purposes of these regulations and in respect of a period during which the notice is effective, be allocated between them by a Health and Social Services Board in such proportions as will ensure that their aggregate superannuable remuneration (as defined in paragraph (7)) in respect of that period is, for the purposes of these regulations and so far as is reasonably practicable, divided fairly between them having regard to their shares in the partnership profits; and the sum allocated by a Health and Social Services Board to each practitioner shall be deemed to be his remuneration for the purposes of these regulations;
 - (iii) if such practitioners gave notice under proviso (b)(iii) of regulation 54(2) of the 1962 regulations that they wished that paragraph of the proviso to apply in their case, then so long as the notice remains effective they shall be treated for the purposes of this paragraph as if they were not in partnership;
 - (iv) except while any notice mentioned in one of the preceding paragraphs of this proviso is effective the total remuneration of the practitioners as practitioners on the list of a Health and Social Services Board shall be allocated between them, for the purposes of these regulations, in equal shares and the share so allocated to each shall be deemed to be his remuneration for the purposes of these regulations;
- (c) if the practitioner is simultaneously employed as an officer of an employing authority or a local authority or as a civil servant or in any other such employment as the Department may in any particular case allow, and as a term or condition of that employment he is required to account to his employer for all or any part of his remuneration received by him as a practitioner, that remuneration shall not be treated as remuneration within the meaning of the foregoing definition;
- (d) no account shall be taken of any remuneration of a dental practitioner—
- (i) in excess of £3,500 in any financial year ended on or after 31st March 1951 and on or before 31st March 1966; or
 - (ii) in excess of £6,000 in any financial year ended on or after 31st March 1967 and on or before 31st March 1972; or

- (iii) in excess of £10,000 in any financial year ended on or after 31st March 1973 but ended not later than 31st March 1975; or
- (iv) in excess of such amount (if any) in any financial year commencing after 31st March 1975 as the Department may specify;
- (e) the remuneration of a dental practitioner employed by persons carrying on the business of dentistry of a deceased practitioner shall not exceed the amount of the sums paid to him by those persons and the sums paid to him by a Health and Social Services Board which he is permitted by those persons to retain; and
- (f) any sum withheld or otherwise recovered from a practitioner under the Health and Personal Social Services (Services Committee) Regulations (Northern Ireland) 1973(a) shall be excluded or deducted from the amount which is, or is deemed to be, his remuneration under this paragraph in such manner and to such extent as the Department may approve.
- (3) A notice given under proviso (a) or proviso (b)(i) or (ii) to paragraph (2)—
 - (a) shall be signed by all the practitioners who are members of the partnership to which it relates, and unless so signed shall be of no effect;
 - (b) shall state as a fraction the share of each practitioner in the partnership profits; and
 - (c) may be cancelled or amended by a subsequent notice signed as aforesaid.
- (4) A notice given under proviso (b)(i) or (ii) to paragraph (2) shall also—
 - (a) state in respect of every practitioner who is a member of the partnership and employed by an employing authority other than a Health and Social Services Board the name of the employing authority and the remuneration (as defined in regulation 3) payable to him by that authority; and
 - (b) include an undertaking by the practitioners to give notice in writing to a Health and Social Services Board at the end of each quarter stating the remuneration (as defined in regulation 3) paid in that quarter in respect of employment with an employing authority otherwise than as a practitioner to any such member of the partnership as is referred to in sub-paragraph (a).

(5) A notice mentioned in proviso (b)(iii) to paragraph (2) may be cancelled by a subsequent notice signed by all the practitioners who are members of the partnership to which it relates.

(6) A notice given under proviso (a) or (b) to paragraph (2), and a notice given under paragraph (3)(c) or under paragraph (5) shall, if it complies with the preceding provisions of this regulation, be effective from such date as may be agreed between the practitioner by whom it was given and a Health and Social Services Board or as may, in default of agreement, be determined by the Department; and any such notice as aforesaid given under proviso (a) or (b) to paragraph (2) shall, so long as the partnership subsists, and subject to any amendment made in accordance with the preceding provisions of this regulation, remain effective until it is cancelled.

(7) In this regulation—

“aggregate superannuable remuneration” means the total of—

- (i) all remuneration (as defined in paragraph (2)) paid to any member or members of the partnership; and
- (ii) all remuneration (as defined in regulation 3) notified by such practitioners to a Health and Social Services Board as having been paid to any member or members of the partnership in respect of employment as an officer under any employing authority otherwise than as a practitioner.

(8) For the purposes of these regulations the remuneration of a practitioner in respect of his service as a practitioner during part of a financial year shall be the same proportion of his remuneration in respect of his service as a practitioner during the whole of that year as his service as a practitioner during such part of a year bears to his service as a practitioner during the whole of that year.

Amendments with respect to contributions, etc.

63.—(1) If the practitioner makes contributions during any period in accordance with regulation 6(3) or the corresponding provision of the previous regulations, the remuneration on which his contributions were calculated shall be deemed to have been his remuneration in respect of that period.

(2) If a practitioner's remuneration is reduced or suspended by reason of absence due to illness or injury then, except for the purposes of the provisions of these regulations relating to the payment of contributions—

(a) if the practitioner is practising in partnership and the total remuneration is allocated under proviso (a) or (b) to regulation 62(2), the total remuneration of the partners shall be deemed to have remained at the same rate as during the preceding 12 months; or

(b) in any other case the practitioner shall be deemed to continue to receive the same average rate of remuneration as he had received during the preceding 12 months:

Provided that if any such reduction or suspension continued for a longer period than 12 months, this paragraph shall apply only in respect of the period of 12 months immediately following the reduction or suspension.

(3) A practitioner to whom paragraph (2) applies for any period by reason of the suspension of his remuneration shall be deemed for the purposes of regulation 26(1)(a) to have made the contributions required by these regulations in respect of that period and regulation 19 shall not apply to such a practitioner until the end of that period.

(4) Where a practitioner has become engaged in national service without having ceased to be a practitioner within the meaning of these regulations and his average rate of remuneration as a practitioner during the period of his national service is less than his average rate of remuneration during the 12 months prior to his having become engaged in national service, he shall be treated for the purposes of these regulations as if during the period of his national service he was receiving such higher average rate of remuneration as aforesaid.

(5) Where a person became engaged in national service after ceasing to be a practitioner within the meaning of these regulations, and the period of his national service falls to be treated as service as a practitioner under these regulations subject to his compliance with the provisions of regulation 6(6), he shall be deemed to have continued to receive during that period the same average rate of remuneration as he received during the 12 months prior to his ceasing to be a practitioner as aforesaid.

Rate of pension for a practitioner

64.—(1) Subject to paragraph (3) the pension to be paid to a practitioner shall, subject to the provisions of these regulations—

(a) in respect of his service as a practitioner, be at the rate specified in paragraph (2), and

(b) in respect of any service otherwise than as a practitioner, be at the rate specified in regulation 8(1).

(2) The pension to be paid in respect of service which is reckonable under these regulations as service as a practitioner shall be 1.4 per cent of the total uprated remuneration in respect of that service, and for the purposes of this paragraph—

- (a) subject to regulations 65 and 68(4), a practitioner's total uprated remuneration shall be calculated by uprating his remuneration for all reckonable service as a practitioner in each financial year in such way as the Department, after consulting such professional organisations as appear to it to be appropriate, may determine and by adding together the uprated remuneration for each financial year;
- (b) remuneration paid during any financial year for service as a practitioner shall be regarded as being remuneration for such service in that year or, if there was no such service in that year, in the last preceding year in which there was any such service; and
- (c) in a case where any payment which has been awarded to a practitioner or to which he was entitled under his terms of service has been withheld or deferred in the national interest then, if the Department considers it appropriate, the withholding or deferment shall be deemed not to have taken place.
- (3) Where any of the practitioner's service was service in contracted-out employment for which no contributions equivalent premium has been paid, or if one has been paid it has been recovered, the pension shall be not less than a pension calculated under paragraph 1(b) in respect of such contracted-out employment.

Prior service to be treated as practitioner service

65.—(1) Subject to paragraph (2), where any person on first becoming a practitioner other than an assistant practitioner is entitled to reckon 10 years or less of contributing service otherwise than as a practitioner such service shall be treated as service as a practitioner, the remuneration received in respect of that service being disregarded and, for the purposes of calculating any benefit, the total uprated remuneration as a practitioner being increased by the same proportion as the service as a practitioner has been increased.

(2) This regulation shall not have the effect in respect of a person who first became a practitioner, other than an assistant practitioner, before 31st March 1977, of reducing the benefits which he would have received had the calculation been made under the corresponding provision as it applied immediately before that date.

Employment as an officer and as a practitioner

66.—(1) Where a practitioner is entitled to reckon less than a year of contributing service otherwise than as a practitioner, and where an officer with previous service as a practitioner has less than one year of employment reckonable as service otherwise than as a practitioner since last ceasing to be a practitioner, such service otherwise than as a practitioner shall, except where regulation 65 applies, be treated as service as a practitioner.

(2) Where the service otherwise than as a practitioner mentioned in paragraph (1) is reckonable under regulation 18(3), the remuneration in respect of it shall be deemed to be remuneration at the annual rate of pensionable pay by reference to which the contributing service was calculated under Schedule 2.

Treatment of national service in certain cases

67. If a practitioner has undertaken national service and that service is reckonable as a period of service under these regulations by virtue of regulation 20(2) of the 1962 regulations (a) such service shall be treated as if it were service as a practitioner.

Reckoning of practitioner service and remuneration

68.—(1) In order to determine the total service as a practitioner all periods of service as a practitioner shall be aggregated, and where 2 or more periods aggregate to

(a) Revoked by regulation 19 of S.R. 1976 No. 46

365 days or more each period of 365 days shall be reckonable as one year, service on 29th February in a leap year being disregarded.

(2) Where a pension is payable under regulation 7(1)(a)(i) to a practitioner whose service does not include any service otherwise than as a practitioner, his reckonable service shall be increased as follows—

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

(3) Where a pension is payable under regulation 7(1)(a)(i) to a practitioner whose service includes service otherwise than as a practitioner, his aggregate service as a practitioner and as an officer other than a practitioner shall be increased in the manner provided in paragraph (2), the period of service as a practitioner and as an officer other than a practitioner each being increased by the same proportion as the aforesaid aggregate service is increased.

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

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

69. For the purposes of regulation 36 further employment as a practitioner between the ages of 65 and 70 years in the case of a person who became entitled to a pension as a practitioner on or after attaining the age of 65 years shall be disregarded.

Further modifications with respect to assistant practitioners

70. These regulations, in their application in the manner hereinbefore provided to an assistant practitioner, shall have effect subject to the following further modifications:—

- (a) for the definition of “remuneration” in regulation 3 there shall be substituted the following definition—

“ ‘remuneration’ means the whole or such part as the Department may approve of all salary, wages, fees and other payments paid or made to an assistant practitioner as such for his own use, including the money value of any apartments, rations or other allowances in kind appertaining to his employment, but not including payments for overtime or any allowances paid to him to cover the cost of providing office or laboratory accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment”;
- (b) the practitioner by whom he is employed shall be deemed to be the employing authority for the purposes of regulation 6(4) but for no other purpose and shall remit the assistant practitioner’s contributions to the Agency after they have been obtained from him.

Modifications relating to certain part-time specialists

71.—(1) Where a benefit becomes payable to or in respect of a whole-time officer, other than a practitioner, whose reckonable service includes service before 1st April 1967 in respect of a period of part-time employment as a specialist occupying substantially the whole of his time, and it would be to his advantage if that benefit were calculated in accordance with this regulation, the benefit shall be so calculated.

(2) Notwithstanding any other provision of these regulations, such part of the benefit referred to in paragraph (1) as is attributable to contributing service in respect of any period of part-time employment before 1st January 1980 as a specialist occupying substantially the whole of his time, any period of employment as a maximum part-time specialist, and to service in respect of any period of whole-time employment otherwise than as a practitioner, shall be calculated in accordance with the following provisions of this regulation—

- (a) all such service shall be deemed to be whole-time service otherwise than as a practitioner;
 - (b) all periods of such service shall be aggregated and if such aggregate service includes a fraction of a year that fraction shall, if it succeeds 182 days, be treated as one-half of a year and in any other case shall be disregarded; and
 - (c) the average remuneration shall be deemed to be the annual average of the remuneration during the last 3 years of such aggregate service.
- (3) In this regulation “maximum part-time specialist” means—
- (a) a specialist appointed to a whole-time specialist post who is paid 10/11ths of the remuneration which he would have received if he had been employed whole-time; or
 - (b) a specialist appointed to a whole-time specialist post before 1st January 1980 who retains the right to which he was entitled on 31st December 1979 to be paid 9/11ths of the remuneration which he would have received if he had been employed whole-time.

Continuation of contracts or policies of insurance in certain cases

72.—(1) Where immediately before the date of coming into operation of these regulations the Department was under a liability imposed by regulation 39(3)(n) of the 1954 regulations to pay to a practitioner as a contribution towards the maintenance of a contract or policy of insurance held by that practitioner with any of the Life Assurance Companies an amount equal to 8 per cent of the practitioner's remuneration, the Department shall, subject to such terms and conditions as it may have determined, continue to pay to the practitioner, so long as he remains a practitioner, as a contribution towards the maintenance of the aforesaid contract or policy an amount equal to 8 per cent of the practitioner's remuneration and the practitioner, so long as he remains a practitioner, shall not be subject to any of the provisions of these regulations except this provision.

In this paragraph “remuneration”—

- (a) in relation to a practitioner other than a part-time specialist means his remuneration as defined in regulation 62 except that no account shall be taken of payments in respect of general ophthalmic services;
- (b) in relation to a part-time specialist has the meaning assigned to it by regulation 3; and
- (c) in relation to an assistant practitioner has the meaning assigned to it by paragraph (a) of regulation 70.

(2) The Department may, where an application was made to it before 31st March 1975 by an ophthalmic medical practitioner who, on 31st March 1974, was on the list

of a Health and Social Services Board and held a contract or policy of insurance with any of the Life Assurance Companies, agree that these regulations, with the exception of this regulation, shall not apply to that practitioner as an ophthalmic medical practitioner in which event the Department shall, subject to such terms and conditions as it may determine, pay to such practitioner as a contribution towards the maintenance of the aforesaid contract or policy an amount equal to 8 per cent of the practitioner's remuneration (as defined in regulation 62) in respect of general ophthalmic services.

(3) Paragraphs (1) and (2) shall, if the Department consents and subject to such additional terms and conditions as it may determine, also apply to any annuity contract approved under section 226 of the Income and Corporation Taxes Act 1970(a) entered into in substitution for the contract or policy mentioned in paragraph (1) or (2), or in further substitution for such annuity contract which has been substituted by virtue of this paragraph or any corresponding provision of these regulations previously in force, as the case may be.

(4) For the purposes of paragraph (1) the term "practitioner" includes a part-time specialist.

(5) Where any remuneration which has been awarded to a practitioner or to which he was entitled under his terms of service has been withheld or deferred in the national interest the Department shall, if it considers it appropriate, pay in addition to the contributions mentioned in paragraph (1) or (2) an amount equal to 14 per cent of the remuneration so withheld or deferred.

Special provisions relating to service before the appointed day as dispensary medical officers and hospital officers

73.—(1) These regulations shall apply to a practitioner who prior to the appointed day was subject to the Medical Officers Superannuation Act (Ireland) 1869(b), as a dispensary medical officer, subject to the following modifications:—

- (a) regulation 18 shall not apply;
- (b) regulation 26(1)(c) shall not apply;
- (c) regulation 8(1) shall have effect so that where the practitioner's contributing service as such practitioner does not amount to 45 years the Department may, on his retirement on grounds of age or incapacity, pay to him, in addition to the pension or other benefit to which he may be entitled under these regulations, an additional pension or allowance in respect of his period of employment as a dispensary medical officer; and
- (d) there shall be reckonable as service for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating any benefit to which he may become entitled, any period of employment as a dispensary medical officer prior to his becoming a practitioner.

(2) Where the total service of a practitioner to whom paragraph (1) applies, being service as a dispensary medical officer and contributing service under these regulations does not in the aggregate exceed 45 years the Department may, for the purposes of paragraph (1) and on being satisfied that it is just and reasonable so to do, add a number of years to the number of years of actual service as a dispensary medical officer:

Provided that—

- (a) the number of years added in accordance with the foregoing provisions of this paragraph shall not exceed the number which might have been added had he retired from his dispensary office on the day preceding the appointed day; and

(a) 1970 c. 10 (Section 226 has been variously amended)

(b) 1869 c. 50

(b) the addition shall be such that the total period of service of the practitioner both as a dispensary medical officer and as a practitioner under these regulations together with the years so added as aforesaid shall not exceed 45 years.

(3) Paragraphs (1) and (2) shall apply to a practitioner who, prior to the appointed day, was subject to the Medical Officers Superannuation Act (Ireland) 1869, as a medical officer in part-time employment on the staff of a hospital for a period of not less than 10 years.

(4) Paragraphs (1) and (2) shall not apply in the case of a person who is or has been at any time in receipt of a pension or other allowance in respect of his period of employment as a dispensary medical officer.

(5) Without prejudice to the provisions of paragraph (4) where a person to whom the provisions of paragraphs (1) and (2) or the corresponding provisions of the previous regulations were applicable has on or after ceasing to be a practitioner taken up further employment in which he is a participant in a superannuation scheme under the provisions of which he is entitled to reckon for the purposes of calculating the amount of any superannuation benefit payable to him thereunder any service which was reckonable as contributing service under these regulations or the previous regulations at the date on which he ceased to be a practitioner, then, if he ceases to hold any such further employment in circumstances which, had they obtained at the date on which he ceased to be a practitioner, would have enabled the Department to pay to him an additional pension or allowance by virtue of the said paragraphs (1) and (2) or the corresponding provisions of the previous regulations, paragraphs (1) and (2) shall apply to him in like manner as if he had ceased to be a practitioner at the date on which he ceased to hold that further employment and as if any superannuation benefit payable to him under the provisions of the superannuation scheme applicable to him in that further employment were a benefit to which he is entitled under these regulations.

PART IV

MISCELLANEOUS

Rights on transfer to other employment

74.—(1) Subject to paragraph (4), where a person has left employment in which he was an officer (hereinafter referred to as his “old employment”) and has taken up employment in which he participates in a superannuation scheme (hereinafter referred to as his “new employment”) which has been approved for the purpose of this paragraph by the Board of Inland Revenue, then if—

- (a) he is a person to whom the provisions of regulation 7(1)(a)(iv) apply, or he has taken up his new employment within 12 months or within such longer period as the Department may in any particular case allow after leaving his old employment;
- (b) he has within 6 months after taking up his new employment or within such longer period as the Department may in any particular case allow given written notice to the body administering that scheme that he wishes that body to apply to the Department for a transfer payment;
- (c) (i) no benefit under these regulations has been paid to him in respect of his old employment (except for a return of contributions in a case to which sub-paragraph (d) applies); or
(ii) he has ceased to be employed in the circumstances mentioned in regulation 7(7) and has repaid to the Department any sums paid to him on account of benefit under these or the previous regulations;

- (d) in a case where he is subject to a health service scheme in his new employment and he has within 6 months of entering the new employment or within such longer period as the Department may in any particular case allow, repaid to the Department an amount equal to any sum paid to him by way of return of contributions together with an amount equal to any income tax which was deducted from his contributions in respect of such payment (not being a deduction under regulation 34(3));
- (e) in a case where the person, not being a woman who has elected to pay reduced rate National Insurance contributions throughout her reckonable service in contracted-out employment, has reckonable service in contracted-out employment in respect of which no contributions equivalent premium has been paid, or if one has been paid it has been recovered, his new employment is contracted-out employment or employment subject to another health service scheme; and
- (f) he is not a person in respect of whom the Department has made a direction under regulation 58,

the Department shall, if the body administering that scheme so agrees, pay to that body a transfer payment calculated in accordance with Part I of Schedule 2, or such other amount as may be agreed with the body administering that scheme.

(2) For the purpose of paragraph (1)(e), where in the case of any person the Occupational Pensions Board established by section 66 of the Social Security Act 1973(a) and the Board of Inland Revenue have approved a transfer payment to a superannuation scheme established for the staff of a Community institution, employment under such scheme shall be deemed to be contracted-out.

(3) Where two or more persons at the same time take up new employment in which they participate in the same scheme after leaving old employment the Department may, on the advice of the Government Actuary, pay to the body administering the scheme a single transfer payment in respect of those persons in substitution for the several transfer payments which would otherwise be payable in accordance with this regulation.

(4) Where a body administering a superannuation scheme waives payment of the transfer payment which would otherwise have been made by the Department such a payment will be deemed to have been made for the purposes of this regulation, regulations 45(2) and 59.

(5) Notwithstanding the provisions of these regulations other than the provisions of regulations 7(1)(a)(iii) and 17(3)(c)(ii) no other benefit shall be paid under these regulations in respect of service for which a transfer payment has been made or deemed to have been made under this regulation.

Provisions relating to approved employment

75.—(1) Where a person (other than a person who is entitled to benefits under regulation 7(1)(a)(iv)), having left employment in which he was an officer or employment to which this regulation applies without having become entitled to any benefit under these regulations other than a return of contributions, has within 12 months, or such longer period as the Department may in any particular case allow, of leaving such employment, entered employment in which he is not entitled to reckon his service under these regulations for the purpose of participating in any superannuation benefits, otherwise than for the sole purpose of determining whether any such benefits are payable, he may (unless he is a person to whom regulation 74(1) of these regulations or the corresponding provision of the previous regulations has

been applied) apply to the Department within 3 months after entering that employment, or within such longer period as the Department may in any particular case allow, to approve the employment for the purposes of this paragraph, and if the employment is so approved the provisions of paragraph (2) shall apply in relation to the person by whom the application under this paragraph was made:

Provided that this paragraph shall not apply in relation to any person who has not within the said period of 3 months, or within such longer period as the Department may in any particular case allow, repaid to the Department an amount equal to any sum paid to him by way of return of contributions on or after leaving the employment in which he was an officer together with an amount equal to any income tax which was deducted from his contributions in respect of such payment (not being a deduction under regulation 34(3)).

(2) Where under paragraph (1) a person's employment has been approved in pursuance of an application made, or having effect as if made, by him under that paragraph and that person has not given notice under paragraph (4), then—

- (a) if he ceases to hold that employment or any subsequent employment approved (on his application) by the Department for the purposes of this paragraph in such circumstances, including that of his age, as, had they obtained when he left the employment in which he was an officer, would have entitled him to any benefit under these regulations, the Department may grant him that benefit, as from the date on which he ceases to hold the approved employment, calculated as if he had become entitled to that benefit at the date on which he left the employment in which he was an officer;
- (b) if he ceases to hold that employment or any subsequent employment approved (on his application) by the Department for the purposes of this paragraph and by reason of his age he does not qualify for a benefit under the provisions of sub-paragraph (a) but becomes entitled to a pension under any pension scheme applicable to him in that employment, the Department may grant to him, as from the date on which he ceased to hold that employment, a benefit equal to the benefit to which he would have become entitled under these regulations on ceasing to hold the employment in which he was an officer, if at the date on which he ceased to hold the employment in which he was an officer he had attained the age of 65 years and had been entitled for the purpose of determining whether any such benefit was payable to him to aggregate with his service for the purposes thereof a period of service equal in length to the period of his approved employment;
- (c) if he dies while in approved employment, the Department may grant the like benefits (if any) by way of widow's or widower's pension, child's allowance, limited pension under regulations 14 and 15 and death gratuity as would have been granted under these regulations if he had died immediately before he ceased to hold the employment in which he was an officer; or
- (d) if within 12 months after ceasing to hold approved employment he again becomes an officer to whom Part II applies he shall, if he repays to the Department a sum equal to the amount (if any) paid to him by way of return of contributions on or after ceasing to hold the approved employment, be entitled to reckon as service, contributing service and non-contributing service respectively, all periods of employment, war service or national service, which he was so entitled to reckon immediately before he left the employment in which he was formerly an officer, and
 - (i) he shall be entitled to reckon the period of his approved employment for the purpose of determining whether any benefit is payable to him under these regulations; and
 - (ii) if in his approved employment he devoted the whole or substantially the whole of his time to the treatment or care of persons suffering from

mental disorder he shall be entitled to reckon the period of that employment for the purpose of assessing the period of 20 years mentioned in regulation 50(2),

but not for any other purpose:

Provided that—

- (i) where a benefit is granted by the Department under sub-paragraph (b), that benefit shall either be reduced, according to the age of the person to whom it is payable, by the percentage shown in the appropriate column of the table set out in Schedule 4, or shall not become payable until the person attains such an age as would have entitled him to a similar benefit under sub-paragraph (a), but any such reduction shall be disregarded in the calculation of any widow's pension which may become payable in respect of the person;
- (ii) where on 1st October 1972 a person was in employment which was approved under regulation 71 of the 1962 regulations(a) and from that date he became entitled to benefits under regulation 7(1)(a)(iv) of the 1962 regulations, the Department may, if that person does not again become an officer, grant him benefits under the said sub-paragraph (a) or (b) in lieu of the benefits provided under the said regulation 7(1)(a)(iv);
- (iii) in reckoning the period of 12 months referred to in sub-paragraph (d) no account shall be taken of any period spent on an approved course of study or training.

(3) The provisions of paragraph (2) shall apply in relation to a person who, after leaving employment in which he was an officer, entered employment which was approved on his application under the corresponding provision of the previous regulations as they apply in relation to a person whose employment has been approved under paragraph (1):

Provided that in relation to a person who, at the time when he left the employment in which he was an officer, was subject to the previous regulations, references in paragraph (2) to these regulations shall be construed as references to the regulations to which he was subject at that time.

(4) No payment shall be made by way of return of contributions to any person who has entered employment in which paragraph (2) has become applicable to him unless and until he either—

- (a) ceases to hold that employment in circumstances in which he does not become entitled to any benefit under these regulations; or
- (b) gives notice to the Department that he wishes this regulation to cease to apply in respect of him from the date of that notice.

(5) The foregoing provisions of this regulation shall apply to a person who ceases to be subject to a direction of the Department made in pursuance of Article 12(5) or Article 12(6) of the Superannuation (Northern Ireland) Order 1972(b), without having ceased to hold the employment in which he was so subject as it applies to a person mentioned in paragraph (1).

Provisions relating to the Pensions (Increase) Act (Northern Ireland) 1971

76. For the purposes of section 6(10) of the Pensions (Increase) Act (Northern Ireland) 1971(c) a pension awarded under these regulations shall be deemed to have

(a) The relevant amending regulations are: S.R. & O. (N.I.) 1967 No. 55; 1972 No. 343 and S.R. 1974 No. 248
 (b) S.I. 1972/1073 (N.I. 10)
 (c) 1971 c. 35 (N.I.)

been a pension specified in Part I of Schedule 1 to the Pensions (Increase) Acts (Northern Ireland) 1944 and 1947(a).

Provisions relating to contributions on a former higher rate of remuneration

77.—(1) Subject to paragraph (2), where immediately before 25th March 1976 an officer was making contributions under regulation 6(5) of the 1962 regulations(b), or under a corresponding provision of the relevant provisions, the said regulation 6(5) or corresponding provision shall cease to apply to him as from 25th March 1976 and in lieu thereof as from that date he shall be entitled to benefits under regulation 7(1)(a)(v) as though the requirements of that regulation were satisfied.

(2) Regulation 6(5) of the 1962 regulations, or a corresponding provision of the relevant provisions shall continue to apply as if these regulations had not been made in the case of an officer who at 25th March 1976 was within 12 months of attaining or had attained an age at which he might have become entitled to a pension under regulation 7(1)(a)(ii) and who gave notice in writing to his employing authority within 3 months of that date, or within such longer period as the Department may in any particular case have allowed, that he wished to continue making contributions under the said regulation 6(5) or corresponding provision.

(3) Where an officer, other than an officer to whom the provisions of regulation 40 apply, was transferred to the employment of an employing authority under the Order and immediately before transfer he was making contributions in accordance with regulation 14(4) of the Local Government Superannuation Regulations, he shall be entitled to benefits under regulation 7(1)(a)(v) in respect of the service reckonable by him immediately before he was so transferred.

Declaration of entitlement

78. The Department may as a condition of paying any benefit under these regulations require a person claiming or receiving such benefit to furnish such declaration as to his entitlement to that benefit as the Department may at any time require.

Determination of questions

79. Any question (not being a point of law or construction) arising under these regulations as to the rights or liabilities of an officer or retired officer, or of a person claiming to be treated as such, or of the widow, any dependant or the personal representatives of an officer or retired officer shall be determined by the Department and its decision thereon shall be final.

Revocation and general savings

80.—(1) The regulations specified in column (1) of Schedule 11 are hereby revoked to the extent mentioned in column 3 of that Schedule.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provision of these regulations and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 18th September 1984.

(L.S.)

H. P. Simpson

Assistant Secretary

(a) 1944 c. 19 (N.I.) and 1947 c. 4 (N.I.)

(b) S.R. & O. (N.I.) 1962 No. 237. The relevant amending regulation is S.R. & O. (N.I.) 1967 No. 55

The Department of Finance and Personnel for Northern Ireland hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance and Personnel for Northern Ireland on 18th September 1984.

(L.S.)

J. B. Forsythe

Assistant Secretary

SCHEDULE 1

Regulation 10

ALLOCATION OF PART OF PENSION

1. A person shall not surrender—

- (a) more than one-third of the pension to which he is entitled (or, in the case of a person to whom regulation 10(2) applies, of the pension to which he would be entitled if he ceased to be employed) or, in a case in which regulation 51 applies, the pension to which he would be entitled apart from the provisions of that regulation;
- (b) any such part as would make the amount of the reduced pension which is or may become payable to him less than the amount of the pension which might become payable to the person in whose favour the allocation is made (hereinafter referred to as the "beneficiary");
- (c) any such part as would make the amount of his reduced pension, apart from the provisions of regulation 51, less than the sum of—
 - (i) the amount of his guaranteed minimum pension accrued up to the date on which he gives notice of his desire to surrender part of his pension, and
 - (ii) the amount specified in paragraph 11 of Schedule 10;
- (d) a smaller part than would secure for the beneficiary a pension of £78 per annum; or
- (e) any part which is not an exact number of pounds.

2. The amount of pension payable in return for each £1 of a pension surrendered by a person shall be the amount shown in the Tables in force at the date on which the person becomes or is deemed to have become entitled to the pension which is appropriate to the age and sex of the beneficiary.

3.—(1) Upon a person's becoming eligible to notify his desire to surrender part of his pension, the employing authority shall furnish him with written information explaining the provisions of these regulations relating to such surrender, together with two copies of a form of notification of surrender of pension, and, in the case of a person to whom regulation 10(2) applies, a provisional estimate of the value of the pension that may become payable to him.

(2) A person to whom regulation 10(1) applies, and who desires to surrender a part of his pension, shall notify the employing authority accordingly not later than one month after he becomes entitled to receive payment of benefits.

4. For the purpose of notifying his desire to surrender a part of his pension, a person shall complete the form provided for the purpose, and send it, together with a copy thereof, to the employing authority whose officer he is or was, and they shall transmit the original to the Department.

5. On receipt by the Department of a notification given by a person under paragraph 4—

- (a) the Department shall arrange for the person to be examined by a registered medical practitioner nominated by the Department, with a view to obtaining from such practitioner a report stating whether, in his opinion, the person is in good health, regard being had to his age; and if the opinion stated in such report is that he is not in good health, the Department shall notify him accordingly, and offer him an opportunity of a further examination by some other registered medical practitioner nominated by the Department;
- (b) the Department shall require the person to furnish at his own expense—
 - (i) a certified copy of his birth certificate, except where the date of birth has been duly recorded by the Department and is not disputed; and
 - (ii) with respect to the beneficiary, a birth certificate, a marriage certificate (in the case of a spouse) and any other information or evidence which the Department may consider necessary:

Provided that if for any reason a birth certificate or a marriage certificate cannot be supplied, the Department may accept such other evidence of birth or marriage as it may think fit.

6. Any fee payable to a practitioner in respect of an examination and report under paragraph 5 shall be paid by the person examined at the time of the examination.

7.—(1) Subject to the provisions of these regulations, unless the Department is of opinion, on consideration of a report obtained by it under paragraph 5, that the person to whom the report

relates is not in good health, or unless it is of opinion that the evidence produced in regard to age or marriage is not satisfactory, it shall accept the surrender of such part of the pension as is specified in the person's notification and as is in conformity with this Schedule, and shall grant to the beneficiary named in the notification a pension in accordance with the provisions of paragraph 2.

(2) As soon as practicable after coming to a decision in regard to a notification given by a person, the Department shall inform him whether or not the notification has been accepted, and if it has been accepted, shall furnish him with a statement as to the amount of the pension to which the beneficiary may become entitled after his death, and the amount of the reduced pension that is or may become payable to him, and, if the notification has not been accepted, shall inform him of the reason.

8.—(1) A person who has given a notification of his desire to surrender part of his pension under these regulations may cancel or amend the notification by a notice in writing given to the employing authority at any time before he has been informed by the Department that his surrender has been accepted.

(2) An amendment of a notification shall be disregarded if the notification as so amended does not comply with this Schedule.

9.—(1) A notification given by a person under this Schedule shall become null and void if—

- (a) the beneficiary dies before the person has been informed by the Department that his surrender has been accepted; or
- (b) the person dies at any time before midnight on the day on which the Department decides to accept the surrender; or
- (c) a person to whom regulation 11(3) of the 1962 regulations(a) applied again becomes an officer and has not become an officer mentioned in sub-paragraph (3) or completed 40 years' contributing and non-contributing service, the non-contributing service being reckoned at half its length.

(2) Subject as aforesaid, a surrender of part of a pension accepted in pursuance of a notification shall have effect as from the date on which the pension becomes payable.

(3) The reference in sub-paragraph (1) to an officer mentioned in this sub-paragraph is a reference to an officer who—

- (a) in the case of a mental health officer or of a female who is a nurse, physiotherapist, midwife or health visitor, has attained the age of 60 years; or
- (b) in any other case has attained the age of 65 years.

10. A notice in writing sent by an employee to his employing authority under paragraph 4 or paragraph 8, and information given by the Department to an employee under paragraph 7 of acceptance or non-acceptance of the employee's notification of his desire to surrender part of his pension shall, if posted in a properly addressed prepaid envelope, be deemed to have been received by the person to whom it was addressed at the time at which a letter would have been delivered in the ordinary course of post.

SCHEDULE 2

Regulations 18(4) and 74(1)

THE CALCULATION OF TRANSFER PAYMENTS AND OF SERVICE TO BE CREDITED IN RESPECT OF
TRANSFER PAYMENTS MADE TO THE DEPARTMENT

PART I

CALCULATION OF TRANSFER PAYMENT

1. A transfer payment to be made in accordance with the provisions of regulation 74 in respect of a person shall be—

- (a) the aggregate of the sums calculated in accordance with paragraph 2 in respect of his accrued pension, accrued retiring allowance and, if the person is a man, his accrued widow's pension, less a sum in respect of accrued modification, accrued guaranteed minimum pension and any contributions equivalent premium which the Department has paid and not recovered in respect of a period of service included in the calculation of the accrued pension, together with
- (b) compound interest at such rates and in respect of such periods between the day on which the person ceases to be an officer and the day on which the transfer payment is made as the Department may from time to time specify.

2.—(1) The sums in respect of accrued pension, accrued retiring allowance, accrued modification and accrued guaranteed minimum pension shall be calculated by multiplying the accrued pension by the pension factor, the accrued retiring allowance by the retiring allowance factor, the accrued modification by the modification factor and the accrued guaranteed minimum pension by the guaranteed minimum pension factor, such factors being the factors in the appropriate table in this Schedule in relation to the person's age at the date on which he ceased to be an officer.

(2) The sum in respect of the accrued widow's pension shall be calculated by multiplying the accrued widow's pension by 4.

3. In this Schedule—

- (a) "accrued pension" and "accrued retiring allowance" mean the annual pension and retiring allowance respectively to which the person would have become entitled if, on the date he ceased to be an officer, he had completed a specified period of service;
- (b) "accrued widow's pension" means the annual widow's pension which, after the expiry of any initial period during which it might have been paid at a higher rate, would have been payable in respect of the person if, on the date he ceased to be an officer, he had been a married man who had been in receipt of a pension equivalent to his accrued pension and had died;
- (c) "accrued modification" means the amount by which the accrued pension would be reduced under any provision for the reduction of a pension as a consequence of the provisions of sections 29 and 35 of the Act of 1966;
- (d) "accrued guaranteed minimum pension" means the amount of the guaranteed minimum pension in respect of the period of contracted-out employment to which an officer was entitled under regulation 17 on the date he ceased to be an officer.

4. Where a person's accrued pension is calculated partly at the rate set out in regulation 8(1) and partly at the rate set out in regulation 64(2), the transfer payment in respect of him shall be the aggregate of—

- (i) a transfer payment in respect of his service otherwise than as a practitioner calculated as if he ceased to be an officer at the date on which he ceased to be an officer other than a practitioner, and
- (ii) a transfer payment in respect of his service as a practitioner calculated as if he ceased to be an officer at the date on which he ceased to be a practitioner.

PART II

CALCULATION OF SERVICE

5. Subject to the provisions of paragraph 6, where a transfer payment has been made to the Department, there shall be credited to the officer in respect of whom the payment was made

such contributing service as would enable the Department to make by reference to the officer's age and pensionable pay a transfer payment under regulation 74 equivalent to the amount received.

6. For the purposes of paragraph 5—

- (a) in the case of an officer who was previously subject to a statutory scheme or to any other scheme which is for the time being treated by the Department as a statutory scheme for the purposes of this Schedule—
 - (i) the calculation of the contributing service to be credited to the officer is to be made by reference to his age, and to the rate of pensionable pay used in the calculation of the transfer payment; and
 - (ii) any sum representing the interest included in the transfer payment is to be ignored;
- (b) in the case of an officer who was previously subject to any other scheme—
 - (i) the calculation of the contributing service to be credited to him is to be made by reference to his age and remuneration at the annual rate payable in respect of him on the day on which he became an officer or, if the transfer payment in respect of him is received by the Department more than one year after he becomes an officer, on the day on which the transfer payment is received, but in the case of a practitioner the annual rate of remuneration shall be the average annual rate of his pensionable pay in respect of the 3 months immediately before his ceasing to be subject to that scheme increased by an annual amount equal to any increase which would have been payable at the date on which the transfer payment was received by the Department under the Pensions (Increase) Act (Northern Ireland) 1971 on a pension of the same amount as the annual rate of the pensionable pay and beginning on the day following the last day on which he was subject to that scheme had that Act applied to such a pension; and
 - (ii) the sum received as a transfer payment shall be deemed to be the sum which the Department determines that it would have received in respect of that officer had the transfer payment been made on the day on which he became an officer;
- (c) the pension in respect of contributing service mentioned in paragraph 5 shall be deemed—
 - (i) in the case of a person mentioned in regulation 51(11), to be subject to that regulation; or
 - (ii) in any other case, to be subject to reduction as provided in regulation 51(3)(e); and
 - (iii) to be subject to paragraph 6(4) of Schedule 10;
- (d) where an amount of a person's pay has been disregarded as a consequence of any provision of the Act of 1966 or the Social Security Act 1973(a) the pensionable pay shall be increased by such amount;
- (e) where the pensionable pay by reference to which the transfer payment received by the Department was calculated relates to a single part-time employment, or to concurrent part-time employments, the transfer payment equivalent to the amount received by the Department shall be calculated by reference to the remuneration which the Department considers would have been paid in respect of a single comparable whole-time employment;
- (f) where the amount of a transfer payment has been reduced by a sum in respect of accrued guaranteed minimum pension, the amount of the transfer payment received shall be deemed to have been the amount that would have been received had it not been so reduced and in calculating under paragraph 5, the transfer payment under regulation 74 equivalent to the amount of the transfer payment received, no reduction shall be made in respect of accrued guaranteed minimum pension.

PUBLIC SERVICE TRANSFER PAYMENTS

TABLE 1 — MEN

(A) Age	(B) <i>Pension Factor</i>	(C) <i>Retiring Allowance Factor</i>	(D) <i>Modification Factor</i>	(E) <i>Guaranteed Minimum Pension Factor</i>
Under 20	5.00	.60	.25	1.47
20	5.05	.60	.25	1.50
21	5.10	.61	.25	1.53
22	5.15	.61	.30	1.56
23	5.20	.61	.30	1.59
24	5.25	.62	.30	1.62
25	5.30	.62	.35	1.65
26	5.35	.63	.40	1.68
27	5.40	.63	.40	1.71
28	5.45	.63	.45	1.74
29	5.50	.64	.50	1.78
30	5.55	.64	.50	1.81
31	5.60	.65	.55	1.85
32	5.65	.66	.60	1.88
33	5.70	.66	.65	1.92
34	5.75	.67	.70	1.95
35	5.80	.67	.80	1.99
36	5.85	.68	.90	2.02
37	5.90	.68	1.00	2.06
38	5.95	.68	1.10	2.10
39	6.00	.69	1.20	2.14
40	6.05	.69	1.30	2.18
41	6.10	.70	1.40	2.22
42	6.15	.70	1.50	2.26
43	6.20	.71	1.60	2.30
44	6.25	.72	1.70	2.34
45	6.30	.72	1.80	2.39
46	6.40	.73	1.90	2.44
47	6.50	.74	2.00	2.48
48	6.60	.74	2.20	2.53
49	6.70	.75	2.40	2.58
50	6.80	.75	2.60	2.62
51	6.90	.76	2.90	2.67
52	7.10	.76	3.20	2.72
53	7.30	.77	3.50	2.78
54	7.50	.78	3.80	2.84
55	7.70	.79	4.20	2.90
56	8.00	.80	4.60	2.97
57	8.30	.81	5.00	3.04
58	8.60	.82	5.40	3.12
59	9.00	.84	5.80	3.20
60	9.50	.86	6.30	3.28
61	9.50	.88	6.80	3.36
62	9.50	.91	7.40	3.44
63	9.50	.94	8.10	3.53
64	9.50	.98	9.00	3.64
65	9.50	1.00	9.50	3.80
66	9.15	1.00	9.15	4.10
67	8.80	1.00	8.80	4.50
68	8.50	1.00	8.50	4.90
69	8.15	1.00	8.15	5.30
70	7.80	1.00	7.80	5.70

TABLE 2— WOMEN

(A)	(B)	(C)	(D)	(E)
Age	<i>Pension Factor</i>	<i>Retiring Allowance Factor</i>	<i>Modification Factor</i>	<i>Guaranteed Minimum Pension Factor</i>
Under 20	7·00	·60	·50	2·20
20	7·05	·60	·50	2·24
21	7·10	·61	·55	2·28
22	7·15	·61	·60	2·32
23	7·20	·61	·65	2·36
24	7·25	·62	·70	2·40
25	7·35	·62	·75	2·45
26	7·40	·63	·80	2·50
27	7·45	·63	·85	2·55
28	7·50	·63	·90	2·60
29	7·55	·64	·95	2·66
30	7·65	·64	1·05	2·71
31	7·70	·65	1·15	2·77
32	7·80	·66	1·25	2·82
33	7·90	·66	1·35	2·88
34	7·95	·67	1·45	2·93
35	8·05	·67	1·55	2·99
36	8·15	·68	1·65	3·05
37	8·25	·68	1·75	3·11
38	8·35	·68	1·85	3·17
39	8·45	·69	1·95	3·24
40	8·55	·69	2·10	3·31
41	8·65	·70	2·25	3·38
42	8·75	·70	2·45	3·45
43	8·85	·71	2·65	3·52
44	8·95	·72	2·90	3·59
45	9·05	·73	3·15	3·66
46	9·15	·74	3·40	3·74
47	9·25	·75	3·70	3·82
48	9·35	·76	4·00	3·90
49	9·45	·77	4·35	3·98
50	9·55	·78	4·75	4·06
51	9·65	·79	5·15	4·15
52	9·80	·80	5·60	4·24
53	9·95	·81	6·10	4·33
54	10·10	·82	6·65	4·43
55	10·30	·83	7·25	4·53
56	10·50	·84	7·95	4·63
57	10·75	·85	8·75	4·74
58	11·05	·87	9·65	4·85
59	11·40	·89	10·65	4·97
60	11·75	·91	11·75	5·10
61	11·75	·93	11·75	5·30
62	11·75	·95	11·75	5·60
63	11·75	·97	11·75	6·00
64	11·75	·99	11·75	6·40
65	11·75	1·00	11·75	6·80
66	11·40	1·00	11·40	7·20
67	11·05	1·00	11·05	7·60
68	10·70	1·00	10·70	8·00
69	10·35	1·00	10·35	8·40
70	10·00	1·00	10·00	8·80

SCHEDULE 3

REDUCTION OF PENSION UNDER REGULATION 51(3)

TABLE 1

WOMAN WHO IS A NURSE, MENTAL HEALTH OFFICER, PHYSIOTHERAPIST, MIDWIFE OR HEALTH VISITOR

Age	Annual Sum	Age	Annual Sum
	£		£
Under 20	1·70	33 and under 34	·675
20 and under 21	1·55	34 „ „ 35	·65
21 „ „ 22	1·40		
22 „ „ 23	1·275	35 „ „ 36	·65
23 „ „ 24	1·15	36 „ „ 37	·625
24 „ „ 25	1·05	37 „ „ 38	·625
		38 „ „ 39	·625
25 „ „ 26	·975	39 „ „ 40	·60
26 „ „ 27	·90		
27 „ „ 28	·85	40 „ „ 41	·60
28 „ „ 29	·80	41 „ „ 42	·60
29 „ „ 30	·775	42 „ „ 43	·575
		43 „ „ 44	·575
30 „ „ 31	·75	44 „ „ 45	·55
31 „ „ 32	·725		
32 „ „ 33	·70	45 and over	·55

TABLE 2

OFFICER, OTHER THAN A FEMALE OFFICER MENTIONED IN TABLE 1

Age	Annual Sum	
	Men	Women
	£	£
Under 20	1·70	1·70
20 and under 21	1·65	1·575
21 " " 22	1·625	1·475
22 " " 23	1·60	1·375
23 " " 24	1·55	1·275
24 " " 25	1·525	1·20
25 " " 26	1·50	1·125
26 " " 27	1·475	1·05
27 " " 28	1·45	1·00
28 " " 29	1·425	·95
29 " " 30	1·40	·90
30 " " 31	1·375	·875
31 " " 32	1·35	·85
32 " " 33	1·30	·825
33 " " 34	1·275	·80
34 " " 35	1·25	·775
35 " " 36	1·225	·75
36 " " 37	1·20	·725
37 " " 38	1·175	·70
38 " " 39	1·15	·675
39 " " 40	1·125	·675
40 " " 41	1·10	·65
41 " " 42	1·075	·65
42 " " 43	1·05	·625
43 " " 44	1·025	·625
44 " " 45	1·00	·60
45 " " 46	·975	·60
46 " " 47	·95	·60
47 " " 48	·925	·575
48 " " 49	·90	·575
49 " " 50	·875	·55
50 " " 51	·85	·55
51 " " 52	·85	·55
52 " " 53	·825	·55
53 " " 54	·80	·55
54 " " 55	·775	·55
55 and over	·775	·55

SCHEDULE 5

Regulation 13

CHILD'S ALLOWANCE

1. Where an officer or a person entitled to a pension under these or the previous regulations dies leaving an eligible child, a child's allowance shall be payable for the first 3 months following the death of the parent or, if the death of the parent occurs on or after 11th January 1983 and the parent has one or more than one child dependent on him at that date, for the first 6 months following that date, or, if the child was born within the period of 3 months or 6 months, as the case may be, the remainder of the period of 3 months or 6 months, as the case may be—

- (a) if the parent was an officer on or after 1st October 1972 and was, at the date of his death, entitled to a pension under these or the previous regulations and was not then an officer, at the rate set out in regulation 12(5)(a);
- (b) if the parent was, at the date of his death, entitled to a pension under these or the previous regulations and was also an officer, at the rate set out in regulation 12(5)(b); or
- (c) if the parent was an officer at the date of his death and was not then entitled to a pension under these or the previous regulations, at the rate set out in regulation 12(5)(c);

and provisos (ii), (iii) and (iv) to regulation 12(5) shall apply to the calculation of such a rate:

Provided that no allowance shall be payable under this paragraph in respect of an eligible child, dependent on the widow or widower, for any period during which a widow's or widower's pension is payable at the rate specified in regulation 12(5) or 14(2).

2. Where an officer or person entitled to a pension under these or the previous regulations dies, leaving an eligible child not dependent on the widow or widower who is entitled to a widow's or widower's pension at the rate specified in regulation 12(5) or 14(2), there shall be payable in respect of that child for the first 3 months following the death of the parent, or if the child was born within that period, the remainder of that period, a child's allowance at the rate specified in paragraph 1.

3. Subject to the provisions of this Schedule, except whilst any amount is payable under paragraphs 1 and 2 and under regulation 12(3), a child's allowance dependent upon the number of eligible children of a person mentioned in regulation 13(2)(a) shall be at the appropriate rate shown in the table hereunder—

TABLE

Number of eligible children	Rate of allowance expressed as a fraction of the pension to which the person was entitled under these regulations	
	Where there is a surviving parent or spouse of a parent	Where there is no surviving parent or spouse of a parent
1 child	One-quarter	One-third
2 or more children	One-half	Two-thirds

Provided that in the case of a child of a person who dies having become entitled to a pension after 1st April 1967 and before 26th March 1972 the rate of allowance shall be calculated as if these regulations had not been made.

4. For the purposes of paragraph 3—

- (i) the pension of a person shall be calculated without reference to any reduction required to be made under regulation 51,
- (ii) the pension of a person who has died before becoming entitled to a pension under these regulations shall be deemed to be the pension which would have been payable to him had he become entitled to a pension under regulation 7(1)(a)(i) on the day of his death, and
- (iii) the pension of a person will be deemed to have been calculated on not less than 10 years' service provided that the enhanced reckonable service does not exceed what would have been the reckonable service if the officer had continued to be employed until the age of 65 years.

5. Where there is a surviving parent or spouse of a parent, the Department may pay a child's allowance at the rate which would have been applicable had there been no surviving parent or spouse of a parent for any period during which it is satisfied that any surviving parent or spouse of a parent does not maintain the child.

6. The child's allowance shall not be payable in respect of the death of more than one parent but shall be payable in respect of the death of whichever parent would result in the larger payment.

7. The child's allowance shall be payable to the child or in such proportion as the Department thinks fit to the children entitled thereto: provided that the Department may if it thinks fit pay the allowance to such other person or persons as it may specify, and such person or persons shall apply it in accordance with any directions given by the Department for the benefit of the child or children entitled thereto.

8. An allowance shall not be payable to or for the benefit of a child mentioned in regulation 13(2)(b)(ii) for any period exceeding one month during which he is maintained out of moneys appropriated by measure or by order in Council under the Northern Ireland Act 1974(a) in a hospital or other institution so maintained.

SCHEDULE 6

Regulation 4(1)(f)

PART-TIME EMPLOYMENTS

The requirements to be satisfied in order that a person employed in a part-time capacity may be an officer by virtue of regulation 4(1)(f) are that:—

1. He fulfils one of the following minimum employment qualifications:—

- (a) he is employed by one or more employing authorities 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; or
- (b) he satisfies the Department that in the aggregate of his employment under one or more employing authorities and employment under a local authority or such other employment as the Department may designate he is employed for such hours in any period as would constitute whole-time employment in his case; or
- (c) he was transferred under the Act or entered employment of an employing authority in consequence of the acquisition of premises under section 74 of the Act of 1971 and immediately before either of those events had reasonable expectations of superannuation benefits on retirement, and since either of those events has remained an officer without a continuous break of 12 months or more other than a period to which regulation 19(2) applies:

Provided that any part-time officer who, whilst continuing to be employed by an employing authority, no longer satisfies a minimum employment qualification under this paragraph shall be deemed to satisfy such a qualification for a period of one month unless during that period he elects otherwise in writing to his employing authority.

2.—(1) There is in respect of him an election made in writing to his employing authority and having effect in accordance with this paragraph.

- (2)(a) Where the employment commenced before 1st April 1973 and the election is made before 1st May 1973, the election shall take effect as from 1st April 1973;
- (b) where the employment commences on or after 1st April 1973 and the election is made within one month after such commencement, the election shall take effect as from the date of such commencement; and
- (c) where the election is made one month or more after the commencement of the employment and on or after 1st May 1973, the election shall take effect as from the beginning of the next pay period following the receipt by the employing authority of that election:

Provided that—

- (i) an employment in which a person does not fulfil a minimum employment qualification under paragraph 1 shall be deemed for the purposes of this paragraph to commence when he fulfils such qualification;
- (ii) an officer shall be deemed to have made an election taking effect as from 1st April 1973 if, before that date, he was a part-time officer to whom these regulations applied and he satisfied the description contained in paragraph 1(b) or 1(c); and
- (iii) an election in relation to the minimum employment qualification set out in paragraph 1(c), other than by a person to whom proviso (ii) applies, must be made within 3 months of the date on which that paragraph first applied to him or within such longer period as the Department may in any particular case allow.

(3) An election under this paragraph shall continue to have effect as an election to his employing authority as long as the officer remains an officer without a continuous break of 12 months or more other than a period to which regulation 19(2) applies.

SCHEDULE 7

Regulation 22

PURCHASE OF ADDED YEARS

1. The sum payable under regulation 22(1)(a) by an officer shall be calculated in accordance with the provisions of paragraph 7 and shall be paid by a lump sum payment within 3 months of either the material date or the end of the period referred to in paragraph 7(3)(a)(ii).

2. The sum payable under regulation 22(1)(b) by an officer shall be calculated in accordance with the provisions of paragraph 8 and shall be paid by additional percentage contributions beginning on the birthday following the material date and ending on the date of intended retirement:

Provided that the additional percentage contributions payable by an officer, together with any other contributions payable by him under these or the previous regulations, shall not in aggregate exceed 15 per cent of his remuneration or such other limit as the Commissioners of Inland Revenue may from time to time specify.

3. For the purposes of this Schedule "material date" means the date on which an officer's election to make payment under regulation 22 is received by his employing authority.

4.—(1) Subject to sub-paragraph (2) and to the provisions of regulation 25 and paragraphs 5 and 6, the additional contributing service that an officer may elect to purchase shall not exceed the number of years set out in column (2) of Table 1 opposite the number of years of service set out in column (1) which would be reckonable on his attaining the age of 60, if his employment as an officer continued to that age.

(2) Where an officer has previously purchased or elected to purchase a period of added years of contributing service under regulation 22 or any corresponding provision of the previous regulations—

- (i) that period shall not be included in ascertaining the number of years of contributing service of that officer which would be reckonable on his attaining the age of 60 if his employment as an officer continued to that age;
- (ii) the number of added years of contributing service which an officer has purchased or elected to purchase shall be deducted from the number of years of additional contributing service which that officer would otherwise be entitled to purchase.

5. The maximum number of added years of contributing service permitted under paragraph 4 shall be reduced, in such manner as the Department may consider in any particular case to be appropriate, to take account of any retained benefits to which the officer became entitled before the material date (whether payable before, on or after that date), and for the purposes of this paragraph "retained benefits" means—

- (a) any pension, lump sum retiring allowance or short service gratuity payable under these or the previous regulations;
- (b) any superannuation benefits, including a return of contributions, payable on termination of employment otherwise than as an officer; and
- (c) such other benefits as the Commissioners of Inland Revenue may from time to time specify:

Provided that this paragraph and paragraphs 4 and 6 shall not apply in respect of the purchase of any service under regulation 22(7) or regulation 22A(2) of the 1962 regulations(a).

6. Where the limits laid down from time to time by the Commissioners of Inland Revenue would allow added years to be purchased up to a different maximum from that provided in paragraphs 4 and 5; the maximum under this Schedule shall be increased or reduced accordingly.

7.—(1) For the purpose of calculating the sum to be paid by an officer under paragraph 1, Table 2 shall apply in accordance with this paragraph.

(2) The age of an officer means his age at the material date.

(3) The remuneration of an officer means the aggregate of his remuneration as calculated under sub-paragraphs (a) and (b).

(a) The relevant amending regulations are: S.R. 1974 No. 327 and 1978 No. 301

- (a) The remuneration of an officer, other than a practitioner, means the annual average of his remuneration during the 3 months of continuous employment as such officer—
- (i) before the material date; or
 - (ii) to the end of the first 3 months of such employment if that is later than the material date:

Provided that—

- (i) in the case of a medical or dental officer entitled under his terms of service to fees in respect of domiciliary consultations, such fees shall be disregarded; and
 - (ii) in the case of an officer whose remuneration was reduced or suspended by reason of his absence from duty, the absence shall be disregarded and no account shall be taken of the reduction or suspension.
- (b) The remuneration of a practitioner means—
- (i) the annual average of his total uprated remuneration (calculated in accordance with regulation 64(2)(a)) for service as a practitioner before the material date, any service that may be treated as practitioner service by virtue of regulations 65 and 66 being disregarded; or
 - (ii) the annual average of his remuneration as a practitioner to the end of the first complete quarter of service as a practitioner if that is later than the material date.

(4) The sum payable by an officer shall be calculated by multiplying his total remuneration by the amount specified in column (2) of Table 2 opposite his age specified in column (1) and the length (expressed in years and fractions of a year) of the additional period that he elects to purchase and dividing the product by 100.

8.—(1) For the purpose of calculating the sum to be paid by an officer under paragraph 2, Table 3 shall apply in accordance with this paragraph.

(2) The age of an officer means his age on his next birthday following the material date.

(3) The “date of intended retirement” means the date on which an officer will attain the age of 55, 60 or 65, whichever is the age to which he has elected to pay additional contributions, and on or before which he would become entitled to receive payment of benefits under regulation 7(1)(a)(ii).

(4) The remuneration of an officer means his total remuneration, including remuneration as a practitioner, during the period for which additional contributions are payable:

Provided that—

- (i) in the case of a medical or dental officer entitled under his terms of service to fees in respect of domiciliary consultations such fees shall be disregarded; and
- (ii) the provisions of regulation 6(3) shall also apply to contributions payable under paragraph 2 where an officer is on leave of absence from duty with reduced remuneration or without remuneration.

(5) The sum payable by an officer shall be the percentage of remuneration specified in the column of Table 3 which is appropriate to his date of intended retirement opposite his age multiplied by the length (expressed in years and fractions of a year) of the additional period he desires to reckon as contributing service in pursuance of regulation 22(1)(b), and rounded to the next 0.01 per cent above.

9. If on application for the purpose made in writing by the officer to the Department, the Department is of the opinion that payment in accordance with paragraph 2 is causing, or continuation of such payment would cause him financial hardship and in its discretion consents to the discontinuance of such payment, the officer shall not continue to make such payment and regulation 22(1)(c) shall apply.

TABLE 1

(1) <i>Potential number of complete years of contributing service reckonable at age 60</i>	(2) <i>Maximum number of years of contributing service that may be purchased</i>
Less than 9	Nil
9	1
10	2
11	3
12	4
13	5
14	7
15	9
16	11
17	13
18	15
19	17
20 or more	20

TABLE 2

Age (1)	Amount appropriate in respect of each £100 of remuneration (2)
	£
20	25.20
21	24.70
22	24.20
23	23.70
24	23.20
25	22.70
26	22.20
27	21.80
28	21.40
29	21.10
30	20.90
31	20.70
32	20.50
33	20.30
34	20.10
35	20.00
36	20.00
37	20.00
38	20.00
39	20.00
40	20.00
41	20.00
42	20.00
43	20.00
44	20.00
45	20.10
46	20.30
47	20.50
48	20.70
49	20.90
50	21.00
51	21.00
52	21.00
53	21.00
54	21.00
55	21.10
56	21.30
57	21.60
58	21.90
59	21.90
60	21.70
61	21.50
62	21.30
63	21.10
64	21.00
65	20.80
66	20.30
67	19.70
68	19.10
69	18.50

TABLE 3

Age	Percentage of remuneration		
	Date of intended retirement		
	55	60	65
20	·61	·50	·36
21	·64	·52	·38
22	·67	·54	·40
23	·70	·56	·42
24	·74	·58	·44
25	·78	·60	·46
26	·82	·62	·48
27	·86	·64	·50
28	·90	·66	·52
29	·94	·68	·54
30	·98	·70	·56
31	1·02	·72	·58
32	1·07	·75	·60
33	1·12	·78	·62
34	1·17	·81	·64
35	1·22	·85	·67
36	1·28	·89	·69
37	1·35	·93	·72
38	1·43	·98	·74
39	1·51	1·03	·77
40	1·60	1·09	·80
41	1·70	1·15	·83
42	1·83	1·22	·87
43	2·00	1·30	·91
44	2·20	1·39	·95
45	2·42	1·48	1·00
46	2·69	1·58	1·06
47	3·02	1·70	1·13
48	3·45	1·85	1·21
49	4·02	2·03	1·29
50	4·80	2·25	1·38
51	6·04	2·53	1·48
52	8·05	2·86	1·60
53	12·18	3·26	1·74
54		3·80	1·90
55		4·58	2·08
56		5·77	2·30
57		7·77	2·56
58		12·06	2·92
59			3·40
60			4·10
61			5·20
62			6·97
63			10·42

SCHEDULE 8

Regulation 24

PURCHASE OF UNREDUCED RETIRING ALLOWANCE

1. The sum payable under regulation 24(1)(a) by an officer shall be calculated in accordance with the provisions of paragraph 4 and shall be paid by a lump sum payment within 3 months of either the material date or the end of the period referred to in paragraph 4(3)(a)(ii).

2. The sum payable under regulation 24(1)(b) by an officer shall be calculated in accordance with the provisions of paragraph 5 and shall be paid by additional percentage contributions beginning on the birthday following the material date and ending on the date of intended retirement:

Provided that the additional percentage contributions payable by an officer, together with any other contributions payable by him under these or the previous regulations, shall not in aggregate exceed 15 per cent of his remuneration or such other limit as the Commissioners of Inland Revenue may from time to time specify:

3. For the purposes of this Schedule "material date" means the date on which an officer's election to make payment under regulation 24 is received by his employing authority.

4.—(1) For the purpose of calculating the sum to be paid by an officer under paragraph 1, Table 1 shall apply in accordance with this paragraph.

(2) The age of an officer means his age at the material date.

(3) The remuneration of an officer means the aggregate of his remuneration as calculated under sub-paragraphs (a) and (b).

(a) The remuneration of an officer, other than a practitioner, means the annual average of his remuneration during the 3 months of continuous employment as such officer—

(i) before the material date; or

(ii) to the end of the first 3 months of such employment if that is later than the material date:

Provided that—

(i) the remuneration of such officer who at the material date was an officer specified in regulation 6(2) shall be his average remuneration increased by an annual amount equal to any increase which would have been payable at the material date under the Pensions (Increase) Act (Northern Ireland) 1971(a) on a pension of the same amount as such average remuneration and beginning on the day on which regulation 6(2) first applied to him;

(ii) in the case of a medical or dental officer entitled under his terms of service to fees in respect of domiciliary consultations, his remuneration shall be increased by a sum equal to the amount of such fees earned by him in the last financial year ending before the material date; and

(iii) in the case of an officer whose remuneration was reduced or suspended by reason of his absence from duty, the absence shall be disregarded and no account shall be taken of the reduction or suspension.

(b) The remuneration of a practitioner means—

(i) the annual average of his total uprated remuneration (calculated in accordance with regulation 64(2)(a)) for service as a practitioner before the material date, any service that may be treated as practitioner service by virtue of regulations 65 and 66 being disregarded; or

(ii) the annual average of his remuneration as a practitioner to the end of the first complete quarter of service as a practitioner if that is later than the material date.

(4) The sum payable by an officer shall be calculated by multiplying his total remuneration by the amount specified in column (2) of Table 1 opposite his age specified in column (1) and the length (expressed in years and fractions of a year) of the contributing service in respect of which he elects to make such payment and dividing the product by 100.

5.—(1) For the purpose of calculating the sum to be paid by an officer under paragraph 2, Table 2 shall apply in accordance with this paragraph.

(a) 1971 c. 35 (N.I.)

(2) The age of an officer means his age on his next birthday following the material date.

(3) The "date of intended retirement" means the date on which an officer will attain the age of 55, 60 or 65, whichever is the age to which he has elected to pay additional contributions, and on or before which he would become entitled to receive payment of benefits under regulation 7(1)(a)(ii).

(4) The remuneration of an officer means his total remuneration, including remuneration as a practitioner, during the period for which additional contributions are payable:

Provided that—

- (i) in the case of a medical or dental officer entitled under his terms of service to fees in respect of domiciliary consultations, his remunerations shall include the value of such fees paid to him; and
- (ii) the provisions of regulation 6(3) shall also apply to contributions payable under paragraph 2 where an officer is on leave of absence from duty with reduced remuneration or without remuneration.

(5) The sum payable by an officer shall be the percentage of remuneration specified in the column of Table 2 which is appropriate to his date of intended retirement opposite his age multiplied by the length (expressed in years and fractions of a year) of the contributing service in respect of which he has elected to make payment, rounded to the next 0.01 per cent above.

6. If on application for the purpose made in writing by the officer to the Department, the Department is of the opinion that payment in accordance with paragraph 2 is causing, or continuation of such payment would cause him financial hardship and in its discretion consents to the discontinuance of such payment, the officer shall not continue to make such payment and regulation 24(8)(c) shall apply.

TABLE 1

Age (1)	Amount appropriate in respect of each £100 of remuneration (2)
	£
29	2.48
30	2.46
31	2.44
32	2.41
33	2.39
34	2.36
35	2.35
36	2.35
37	2.35
38	2.35
39	2.35
40	2.35
41	2.35
42	2.35
43	2.35
44	2.35
45	2.36
46	2.38
47	2.41
48	2.44
49	2.46
50	2.47
51	2.47
52	2.47
53	2.47
54	2.47
55	2.48
56	2.50
57	2.50
58	2.50
59	2.50
60	2.50
61	2.50
62	2.50
63	2.50
64	2.50
65	2.50
66	2.50
67	2.50
68	2.50
69	2.50

TABLE 2

Age	Percentage of remuneration		
	Date of intended retirement		
	55	60	65
29	·11	·08	·06
30	·12	·08	·07
31	·12	·08	·07
32	·13	·09	·07
33	·13	·09	·07
34	·14	·10	·08
35	·14	·10	·08
36	·15	·11	·08
37	·16	·11	·08
38	·17	·12	·09
39	·18	·12	·09
40	·19	·13	·09
41	·20	·13	·10
42	·22	·14	·10
43	·24	·15	·11
44	·26	·16	·11
45	·29	·17	·12
46	·32	·19	·12
47	·36	·20	·13
48	·41	·22	·14
49	·47	·24	·15
50	·56	·27	·16
51	·71	·30	·17
52	·95	·34	·19
53	1.43	·38	·20
54		·45	·22
55		·54	·24
56		·68	·27
57		·91	·30
58		1.42	·34
59			·40
60			·48
61			·61
62			·82
63			1.23

SCHEDULE 9

Regulation 41(3)

PURCHASE OF ADDITIONAL WIDOW'S PENSION

1. The sum payable under regulation 41(3) by an officer shall be calculated in accordance with the provisions of paragraph 5, and may be paid—

- (a) by a lump sum;
- (b) partly by a lump sum and partly, as provided in paragraph 3, by equal instalments; or
- (c) wholly by equal instalments as aforesaid.

2. For the purposes of this Schedule the "material date" has the meaning ascribed to it in regulation 41(5)(c).

3. A lump sum payable under paragraph 1 shall be paid within such time after the material date as the Department may specify and instalments payable under that paragraph shall be of equal amounts spread over a whole number of years not being less than 5 years and not more than 10 years or over the whole period to the date on which the officer attains the age of 65 if that period is less than 10 years, the first instalment to be paid within such period as the Department may specify:

Provided that—

- (a) the whole of the instalments shall be paid by the date on which the officer attains the age of 65 years; and
- (b) the instalments payable by an officer, together with any other contributions payable by him under these or the previous regulations, shall not in aggregate exceed 15 per cent of his remuneration or such other limit as the Commissioners of Inland Revenue may from time to time specify.

4. Where payment is made by instalments under paragraph 1, the amount calculated in accordance with paragraph 5 shall be increased by 5 per cent for each year over which instalments are to be spread and proportionately for any part-year.

5.—(1) For the purposes of calculating the sum to be paid by an officer under this Schedule the table set out below shall be used in accordance with this paragraph.

(2) The age of an officer means his age at the material date.

(3) The remuneration of an officer means the annual average of his remuneration (being such remuneration as is defined in regulation 41(5)(a)) during the 3 months of continuous employment as an officer—

- (a) before the material date; or
- (b) to the end of the first 3 months of such employment if that is later than the material date:

Provided that—

- (i) in the case of an officer whose remuneration was reduced or suspended by reason of his absence from duty owing to illness or injury, the absence shall be disregarded and no account shall be taken of the reduction or suspension; and
- (ii) the rate of remuneration of an officer in part-time employment shall be deemed to be the rate of remuneration which the Department determines would have been paid in respect of a single comparable whole-time employment.

(4) The sum payable by an officer in respect of one year of service shall be calculated by multiplying his remuneration by the amount shown in column (2) of the table set out below corresponding to his age and dividing the product by 100.

(5) The sum payable by an officer in respect of more than one year of service is the sum calculated in accordance with sub-paragraph (4) multiplied by the number of years of service in respect of which he elects to make payment, and a proportionate amount in respect of a fraction of a year in respect of which he elects to make such payment.

TABLE

Age (1)	<i>Amount appropriate in respect of each £100 of remuneration</i> (2)
	£
20	1.107
21	1.115
22	1.123
23	1.131
24	1.139
25	1.148
26	1.156
27	1.164
28	1.172
29	1.181
30	1.190
31	1.200
32	1.211
33	1.221
34	1.232
35	1.242
36	1.253
37	1.264
38	1.274
39	1.285
40	1.296
41	1.308
42	1.320
43	1.332
44	1.345
45	1.359
46	1.373
47	1.388
48	1.404
49	1.419
50	1.434
51	1.452
52	1.474
53	1.498
54	1.524
55	1.554
56	1.588
57	1.628
58	1.674
59	1.726
60	1.785
61	1.793
62	1.802
63	1.812
64	1.823
65 and over	1.828

MODIFICATION OF BENEFITS AND OBLIGATIONS UNDER THESE REGULATIONS
IN CONNECTION WITH THE ACT OF 1966

PART I

Reduction of pensions

1.—(1) Subject to the provisions of this Schedule, where any period of service reckonable in calculating the amount of any pension to which an officer is entitled has been in participating employment, as from the date on which the officer becomes entitled to that pension, or if on becoming entitled to the pension he has not yet reached the age of 65 years in the case of a man or 60 years in the case of a woman, as from the date on which he reaches that age, the part of the pension which is attributable to any such period of service shall be reduced in accordance with this Part, and regulation 51 or the corresponding provision of any optants scheme shall cease to apply in relation to that part of the pension.

(2) The reduction required to be made in accordance with this Part shall not be less than that required to be made under the said regulation 51 or corresponding provision of an optants scheme.

(3) For the purpose of this Part, no account shall be taken of any period of participating employment occurring in an income tax year if no graduated contributions have been paid in respect of all such periods during that year.

(4) Notwithstanding anything in paragraph (3), a period of employment as an officer, at the end of which a payment in lieu of contributions has been made, shall be treated for the purpose of this Part, as a period of participating employment.

(5) No account shall be taken of the reduction of any pension under this Part—

(a) in calculating the amount of any retiring allowance or death gratuity or of any pension or allowance to or in respect of a widow, child or other dependant, payable under these regulations or an optants scheme; or

(b) for the purposes of paragraph 1(a) of Schedule 1.

2.—(1) Where a pension would, apart from this Schedule, be subject to reduction in accordance with regulation 51, so much of that pension as is attributable to any period of participating employment shall, subject to sub-paragraph (2), be reduced—

(a) for each year of such employment which is reckonable as contributing service otherwise than as a practitioner, by a sum equal to 1/240th of so much of the retiring remuneration as does not exceed—

(i) in respect of any such year prior to 6th January 1964, £780 per annum; or

(ii) in respect of any such year on or after 6th January 1964, £936 per annum, and by a proportionate part of such sum for any part of such year; and

(b) for each year ending 31st March or part of such year of such employment which is reckonable as contributing service as a practitioner, by a sum equal to 1/2 per cent of so much of his remuneration—

(i) in respect of any year or part of a year prior to 1st April 1964 as does not exceed £780 per annum; or

(ii) in respect of any year or part of a year on or after 1st April 1964 as does not exceed £936 per annum:

Provided that—

(a) where a mental health officer is entitled by virtue of regulation 50 to reckon any year of contributing service as such an officer as if it were 2 years, so much of the pension as is attributable to any additional year so reckonable shall, in lieu of such reduction as aforesaid, be reduced by the sum of £1.70 in respect of each such year;

(b) where any employment described in sub-paragraph (a) is reckonable as contributing service at half its length by virtue of regulation 31(1), for the reference in the said sub-paragraph (a) to 1/240th there shall be substituted a reference to 1/480th;

(c) in respect of any period of non-participating employment at the end of which a payment in lieu of contributions has been made such reduction as aforesaid shall be calculated as if the person's remuneration or retiring remuneration had been the remuneration taken into account in calculating the payment in lieu of contributions.

(2) If the last period of contributing service before 6th April 1975 of an officer, other than an officer who is a registered medical or dental practitioner, was non-participating employment in respect of which no payment in lieu of contributions has been made, no account shall be taken for the purpose of this paragraph of any retiring remuneration—

- (a) in respect of any period of participating employment prior to 6th January 1964, in excess of £650 per annum in the case of a man and £575 per annum in the case of a woman; and
- (b) in respect of any period of participating employment on or after 6th January 1964, in excess of £730 per annum in the case of a man and £680 per annum in the case of a woman,

but in the application of this sub-paragraph to a person who became an officer before 1st January 1974 after having been employed in local government service in which employment the last period was non-participating employment for which no payment in lieu of contributions has been made, the following sub-paragraphs shall be substituted for sub-paragraphs (a) and (b) aforesaid in respect of any participating employment in that employment—

- “(a) in respect of any period of participating employment prior to 6th January 1964, in excess of £676 per annum in the case of a man and £624 per annum in the case of a woman; and
- (b) in respect of any period of participating employment on or after 6th January 1964, in excess of £754 per annum in the case of a man and £702 per annum in the case of a woman.”

(3) For the purpose of this paragraph, “retiring remuneration” means in relation to an officer other than a practitioner his average remuneration calculated in accordance with regulation 33(1) except proviso (f) thereto, or where the pension was calculated under an optants scheme, the average remuneration on which his pension is based uprated by the same factor used to uprate his pension in accordance with regulation 40(6)(e).

Reduction of pensions payable to certain classes of officer

3. Where a pension would, apart from this Schedule, be subject to reduction under regulation 51(3)(a), (b), (c) or (d), so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with the said sub-paragraph (a), (b), (c) or (d), as the case may be, and shall be further reduced in accordance with paragraph 2 but shall be increased by the sum of £1.70 for each year of contributing service and by a proportionate amount of that sum in respect of any part year of contributing service comprised in that period:

Provided that where a pension is payable to a mental health officer who is entitled by virtue of regulation 50 to reckon any year of contributing service as such an officer as if it were 2 years, so much of the pension to which this paragraph applies as is attributable to any additional year so reckonable shall be reduced solely in accordance with the said sub-paragraph (a), (b), (c) or (d), as the case may be.

Pensions not subject to reduction under regulation 51 or corresponding provisions of an optants scheme

4. Where a pension is not subject to reduction in accordance with regulation 51(3) or the corresponding provision of any optants scheme, so much of that pension as is attributable to any period of participating employment shall be reduced in accordance with paragraph 2 but shall be increased by the sum of £1.70 for each year of contributing service and a proportionate amount in respect of any part year of contributing service comprised in that period.

Pensions payable to optants

5.—(1) Where a pension is payable under the terms of the Act of 1909 as applied to him by virtue of his having elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him under that Act, so much of the pension as is attributable to any period of participating employment shall be reduced in the like manner as is provided in paragraph 4.

(2) Where a pension falls to be calculated in accordance with the provisions of an optants scheme, other than the Act of 1909, so much of any pension payable to him as is attributable to any period of participating employment shall be reduced by a sum of £1.30 per annum for every unit, ascertained in accordance with section 35(2) and (3) of the Act of 1966, of graduated

contributions paid or treated by virtue of section 57 of that Act as having been paid, by him during such period of participating employment and, in calculating the number of units of a person's graduated contributions account shall be taken only of such number of units as is attributable to graduated contributions paid by him at the rate of 4¼ per cent of the amount up to £468 per annum by which his remuneration exceeds £468 per annum.

Reduction of pension in respect of other reckonable employment

6.—(1) Where, before 1st January 1974, a person became an officer after having been employed in other employment (in this paragraph referred to as "his former employment") and any contributing service reckonable by him in his former employment included any period of participating employment or non-participating employment at the end of which a payment in lieu of contributions has been made, so much of a pension payable to him as is attributable to any such period shall, in lieu of any reduction for which this Part provides, be reduced—

- (a) if a modification provision was applicable to him immediately before he ceased his former employment in the like manner as if he had continued that employment and retired from it on the day he ceased to be an officer; or
- (b) if no modification provision was applicable to him at that time and the transfer payment in respect of his former employment had been adjusted to take account of a payment in lieu of contributions, by the amount of the graduated retirement benefit payable under the Act of 1966, the Great Britain Acts or the Isle of Man Act, as the case may be, in respect of the payment in lieu of contributions.

(2) Where in respect of any period of non-participating employment which has become reckonable for the purpose of these regulations by a person who became an officer before 1st January 1974, equivalent pension benefits have been assured for the purposes of the Act of 1959, the Act of 1966, the Great Britain Acts or the Isle of Man Act, as the case may be, there shall, for the purpose of this Schedule, be deemed to have been made a payment in lieu of contributions of such amount as would otherwise have fallen to be paid in respect of such employment.

(3) Where an officer, other than an officer to whom sub-paragraph (4) applies, has made payments under regulation 27, 28, 29 or 30 and such payments were reduced in accordance with any modification provision of the scheme to which he was subject in his former employment, the part of any pension to which he becomes entitled which is attributable to those payments shall be reduced as if it had been attributable to a period of his former employment.

(4) Where a person who became an officer after 31st December 1973 is entitled, under regulation 18(4), to reckon as contributing service the service which was reckonable in a superannuation scheme, then if that scheme was—

- (a) a statutory scheme or any other scheme which is for the time being treated by the Department as a statutory scheme for the purpose of this sub-paragraph and the transfer payment received by the Department in respect of him has been reduced by reference to an amount by which his pension under that scheme would have been reduced as a consequence of the provisions of section 35 of the Act of 1966, so much of any pension payable to him as is attributable to any such contributing service shall, in lieu of the reduction for which this Part provides, be reduced by that amount; or
- (b) any other scheme, so much of any pension payable to him as is attributable to any such contributing service shall not be subject to any reduction for which this Part provides.

Reduction of death gratuities

7.—(1) Where an officer dies without having become entitled to a pension, and a death gratuity is payable under regulation 11 or under an optants scheme, then if a payment in lieu of contributions is required to be made, or such a payment has previously been made in respect of him, the death gratuity shall be reduced by a sum amounting to half of the payment in lieu of contributions or half of the aggregate of such payments if more than one has been made.

(2) No payment in lieu of contributions shall be taken into account for the purpose of this paragraph—

- (a) if the payment was made on the termination of any period of employment which is not reckonable as service for the purposes of these regulations; or
- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation — Assurance of Equivalent Pension Benefits)

Regulations (Northern Ireland) 1960(a), or any corresponding regulation in Great Britain or the Isle of Man.

Adjustments following a payment in lieu of contributions or assurance of equivalent pension benefits

8.—(1) Where an officer leaves employment or dies in circumstances in which under these regulations or under any optants scheme there is payable to or in respect of him an amount by way of a return of contributions and—

- (a) a payment in lieu of contributions has previously been made in respect of him in circumstances not involving a return of contributions; or
- (b) the officer's non-participating employment came to an end by reason of the circumstances mentioned in regulation 4(1) of the National Insurance Regulations 1975 and he has been assured of equivalent pension benefits in respect of that employment,

the amount payable to or in respect of him shall be reduced either by a sum equal to one-half of the value of the payment in lieu or by a sum equal to one-half of the payment in lieu which would have had to be made under section 58(3) of the Act of 1966, as modified by regulation 5(2) of the National Insurance Regulations 1975, had the person not been assured of equivalent pension benefits, as the case may be, provided that such sum shall not exceed the amount of the refund.

(2) No payment in lieu of contributions shall be taken into account for the purpose of this paragraph—

- (a) on more than one occasion; or
- (b) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation — Assurance of Equivalent Pension Benefits) Regulations (Northern Ireland) 1960, or any corresponding regulation in Great Britain or the Isle of Man.

(3) Where a payment to any officer by way of a return of contributions is reduced under section 59(5) of the Act of 1966, or under sub-paragraph (1) or under any corresponding provisions contained in or made under any other enactment (including any such provisions in force in Great Britain or the Isle of Man), the amount by which the payment is reduced shall be treated for the purpose of any subsequent return of contributions to which the officer may become entitled under these regulations as having been returned to and retained by the officer.

PART II

NON-PARTICIPATION

Treatment of certain employments as employment under a single employer

9. All employments in which a person's service qualifies him for retirement benefits under these regulations shall be treated for the purposes of Part III of the Act of 1966 and of any regulations made thereunder as employments under a single employer different from the employer in any other employment.

Liabilities of the employer

10. In relation to any employment mentioned in paragraph 9 those things which are required or authorised to be done by or to the employer under—

- (i) section 57 of the Act of 1966 (payments in lieu of contributions) as modified by regulation 4 of the National Insurance Regulations 1975;

(a) S.R. & O. (N.I.) 1960 No. 181 (as variously amended and continuing in force by virtue of regulation 3 of and Sch. 3 to S.R. 1975 No. 48)

- (ii) the National Insurance (Non-participation — Certificates) Regulations (Northern Ireland) 1960(a);
- (iii) the National Insurance (Non-participation — Assurance of Equivalent Pensions Benefits) Regulations (Northern Ireland) 1960;
- (iv) the National Insurance Regulations 1975; and
- (v) the National Insurance (Non-participation — Transitional Provisions) (No. 2) (Northern Ireland) Regulations 1975(b),

shall be done by or to the Department.

PART III

MISCELLANEOUS

Limitation of surrender, assignment, etc., of pensions

11.—(1) In respect of a period of non-participating employment for which the Department is responsible for preserving equivalent pension rights except such employment for which a payment in lieu of contributions has been made, no provision in these regulations or in any optants scheme—

(a) for the surrender or assignment of a pension; or

(b) for the reduction, termination or suspension of a pension if invoked for any cause other than one prescribed under section 56(1)(c) of the Act of 1966,

shall operate to reduce a pension payable in respect of any such period to a man who has attained age 65 or a woman who has attained age 60 below the rates specified in sub-paragraph (3).

(2) Notwithstanding any provision in an optants scheme to the effect that a benefit may be awarded thereunder at the discretion of the authority administering the scheme, the rights enjoyed by an officer shall include the right, subject to sub-paragraph (1), to receive at the age of 65 years in the case of a man, or 60 years in the case of a woman, benefits not less than the rates specified in sub-paragraph (3).

(3) The rates referred to in sub-paragraphs (1) and (2) and paragraph 12(2) are—

(i) in respect of any year prior to 6th January 1964, the rate of £2·30 and 10/12 of a penny a year in the case of a man and £1·92 and 6/12 of a penny a year in the case of a woman; and

(ii) in respect of any year after 5th January 1964, the rate of £3·47 and 11/12 of a penny a year in the case of a man and £2·90 a year in the case of a woman,

and a proportionate part of such rates in respect of any part-year.

Rights of optants

12.—(1) Notwithstanding any provision to the contrary in an optants scheme, the rights of an officer subject to such a scheme who on ceasing to be an officer has attained age 65 years in the case of a man or 60 years in the case of a woman and completed 5 years' service, shall include the right to receive benefits mentioned in sub-paragraph (2).

(2) The benefits payable in accordance with sub-paragraph (1) are such benefits as would have been payable to an officer under these regulations and the relevant optants scheme in respect of the service reckonable by him immediately before he ceased to hold his employment if he had then reached such age and completed such service as would have entitled him to a benefit thereunder, but an annual pension so payable in respect of any period of employment described in paragraph 11(1) shall not be less than the rates specified in paragraph 11(3).

(a) S.R. & O. (N.I.) 1960 No. 22 (as variously amended and continuing in force with modifications by virtue of regulations 2 and 4 of S.R. 1975 No. 51)

(b) S.R. 1975 No. 51

SCHEDULE 11

Regulation 81

Revocation

Column 1 Regulations revoked	Column 2 References	Column 3 Extent of revocation
The Health Services (Superannuation) Regulations (Northern Ireland) 1948.	1948 No. 161	44, 45 and the Eighth Schedule
The Health Services (Superannuation) Regulations (Northern Ireland) 1962.	1962 No. 237	Whole Regulations
The Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1967.	1967 No. 55	18, 23(2), (3), (4) and (5) and 26(2)
The Health Services (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1972.	1972 No. 343	27
The Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1973.	1973 No. 101	9
The Health Services (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1973.	1973 No. 201	10
The Health Services (Superannuation) (Amendment) (No. 2) Regulations (Northern Ireland) 1974.	1974 No. 248	14
The Health Services (Superannuation) (Amendment) (No. 3) Regulations (Northern Ireland) 1974.	1974 No. 327	19, 20, 21 and 22
The Health Services (Superannuation) (Amendment) Regulations (Northern Ireland) 1976.	1976 No. 46	13, 20, 21, 23 and 24
The National Insurance (Health Services Superannuation Scheme — Modification and Non-participation) Regulations (Northern Ireland) 1978.	1978 No. 292	Whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations consolidate, with certain amendments, the provisions of the Health Services (Superannuation) Regulations (Northern Ireland) 1962 to 1983 which provide for the superannuation of persons engaged in the Health and Personal Social Services.

These regulations also contain some improvements to the Health and Personal Social Services superannuation scheme including—

- (a) provision for a period of unauthorised unpaid absence to be disregarded for the purpose of determining final remuneration (regulation 33);
- (b) the removal of the existing restriction on a refund of contributions to a person whose salary exceeded £5,000 in any financial year and whose service terminates on or after 6th April 1980 (regulation 34(4));
- (c) a revised method of calculating a practitioner's pre-retirement earnings for the purposes of considering any adjustment to his pension on re-employment (the rights of those already re-employed on 1st April 1980 are protected) (regulation 36(4)(e)(i));
- (d) the removal of the requirement to modify benefits in accordance with the provisions of the National Insurance Act (Northern Ireland) 1946 in respect of service on or after 1st April 1980 and consequential amendments to the provisions for crediting service transferred into the Health and Personal Social Services scheme (regulation 51);
- (e) the introduction of a 'no-detriment' clause to protect the rights of certain members who would otherwise be adversely affected by regulation 38 of S.R. 1978 No. 301 (regulation 65(2)).

In accordance with Article 14(1) of the Superannuation (Northern Ireland) Order 1972, regulation 4(1)(e) will have retrospective effect as from 1st April 1981, regulation 18(1)(b) as from 6th April 1978, regulations 33(1) and 36(4)(e) as from 1st April 1980 and regulations 65(1) and (2) and 66(1) as from 31st March 1977.