STATUTORY INSTRUMENTS

1961 No. 467 (S. 22)

NATIONAL INSURANCE

The National Insurance (Modification of the National Health Service Superannuation (Scotland) Scheme) Regulations, 1961

Made - - - -	14*th March*, 1961
Laid before Parliament	21*st March*, 1961
Coming into Operation	3*rd April*, 1961

Whereas the Treasury has determined under subsection (4) of section 69 of the National Insurance Act, 1946(**a**), that the Secretary of State for Scotland is the appropriate Minister to make regulations under that subsection modifying the scheme for the provision of pensions and other benefits established by regulations made under section 66 of the National Health Service (Scotland) Act, 1947(**b**):

Now, therefore, in exercise of the powers conferred on me by the said subsection (4), as extended by section 15 of the National Insurance Act, 1959(**c**), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and Commencement

1. These regulations may be cited as the National Insurance (Modification of the National Health Service Superannuation (Scotland) Scheme) Regulations, 1961, and shall come into operation on the 3rd day of April, 1961.

Interpretation

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

"the Act of 1959" means the National Insurance Act, 1959;

"the principal regulations" means the National Health Service (Superannuation) (Scotland) Regulations, 1955(**d**);

"non-participating employment" has the meaning assigned to it by subsection (2) of section 7 of the Act of 1959;

"officer" has the meaning assigned to it by the principal regulations and includes a practitioner within the meaning of those regulations who is an employed person for the purposes of the National Insurance Act, 1946;

"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 regulations made under paragraph (*h*) of subsection (1) of section 66 of the National Health Service (Scotland) Act, 1947, to retain rights corresponding with those which he previously enjoyed under such a scheme;

and other words and expressions have the same meanings as in the principal regulations or the Act of 1959 as the case may be.

(a) 9 & 10 Geo. 6. c. 67.
(b) 10 & 11 Geo. 6. c. 27.
(c) 7 & 8 Eliz. 2. c. 47.
(d) S.I. 1955/1143 (1955 I, p. 1470).

(2) References in these regulations to the provisions of any enactment, scheme or regulations shall, unless the context otherwise requires, be construed as references to those provisions as amended, modified, extended, applied or re-enacted by any subsequent enactment, scheme or regulations, including these regulations.

(3) The Interpretation Act, 1889(a), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Limitation of surrender, commutation, etc. of pensions

3.—(1) No provision in the principal regulations or in any optants scheme—

(*a*) for the surrender, commutation 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 by regulations made under paragraph (*c*) of subsection (1) of section 8 of the Act of 1959,

so far as it affects any officer who is, or was immediately before he ceased to be employed, in non-participating employment, shall operate so as to reduce a pension payable to an officer who attains the age of sixty-five years in the case of a man, or sixty years in the case of a woman, below such amount as would be equal, as regards equivalent pension benefits, to the graduated retirement benefit which would be payable to the officer in terms of paragraph (*d*) of subsection (1) of section 8 of the Act of 1959.

(2) For the purposes of the last foregoing paragraph, the employment to be taken into account is that period or periods of non-participating employment reckonable for the purpose of calculating the amount of any benefit payable to the officer, except any earlier period of such employment in respect of which—

(*a*) a payment in lieu of contributions has been made under the Act of 1959, or

(*b*) equivalent pension benefits satisfying the requirements of Part II of the Act of 1959 have already been assured to the officer.

(3) 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 any provision mentioned in paragraph (1) of this regulation, to receive on retiral, at the age of sixty-five years in the case of a man, or sixty years in the case of a woman, benefits not less in amount than equivalent pension benefits satisfying the requirements of Part II of the Act of 1959.

Rights of Optants

4.—(1) Where an officer has exercised, or is treated as having exercised, an option conferred by regulations made under paragraph (*h*) of subsection (1) of section 66 of the National Health Service (Scotland) Act, 1947, to retain rights to superannuation benefits corresponding with those previously enjoyed by him, and the enactment or scheme previously applicable in his case provided that the superannuation benefits—

(*a*) had to be in the form of or include an annual pension, and

(*b*) were not to be payable on attaining the age of sixty years or any lesser age unless the officer had completed a prescribed period of service longer than ten years,

(a) 52 & 53 Vict. c. 63.

the rights which an officer has elected to retain shall include the right on ceasing to be employed by an employing authority to receive the benefits mentioned in paragraph (2) of this regulation if the officer has attained the age of sixty-five years in the case of a man or sixty years in the case of a woman and has completed ten years' service.

(2) The benefits referred to in paragraph (1) of this regulation are such benefits as would have been payable to him under the principal regulations and the relevant optants scheme in respect of the service reckonable by him immediately before he ceased to hold his employment if—

(*a*) he had then reached such age and completed such service as would have entitled him to a benefit thereunder, and

(*b*) the amount of the benefit so calculated had been reduced according to the age at which he ceased to hold his employment by the percentage shown in the column in the relevant table set out in the Schedule to these regulations appropriate to the earliest age at which he could have satisfied the conditions of the foregoing sub-paragraph,

provided that any annual pension so payable shall not be less than the amount of the graduated retirement benefit which would be payable to the officer under paragraph (*d*) of subsection (1) of section 8 of the Act of 1959, the period of employment to be taken into account being that given in paragraph (2) of regulation 3 of these regulations.

Dated this 14th day of March, 1961.

John S. Maclay,
Secretary of State for Scotland.

St. Andrew's House,
Edinburgh, 1.

SCHEDULE

Reduction of Benefits under Regulation 4

Part I. Pension

Age of person on ceasing to be employed	Percentage reduction to be made under paragraph 2 of regulation 4									
	61	62	63	64	65	66	67	68	69	70
60	7	15	21	28	33	38	42	46	49	52
61	—	8	15	22	28	33	38	43	46	49
62	—	—	8	16	23	28	34	39	43	46
63	—	—	—	9	17	23	29	35	40	43
64	—	—	—	—	9	17	24	30	36	40
65	—	—	—	—	—	9	17	24	31	36
66	—	—	—	—	—	—	9	18	25	31
67	—	—	—	—	—	—	—	10	18	26
68	—	—	—	—	—	—	—	—	10	19
69	—	—	—	—	—	—	—	—	—	11

PART II. LUMP SUM BENEFIT

Age of person on ceasing to be employed	Percentage reduction to be made under paragraph 2 of regulation 4									
	61	62	63	64	65	66	67	68	69	70
60	4	9	13	16	20	24	27	31	34	36
61	—	5	9	13	17	21	24	28	32	34
62	—	—	5	9	14	18	21	25	29	32
63	—	—	—	5	10	14	18	22	26	30
64	—	—	—	—	5	10	15	19	23	27
65	—	—	—	—	—	5	11	15	20	24
66	—	—	—	—	—	—	6	11	16	21
67	—	—	—	—	—	—	—	6	11	17
68	—	—	—	—	—	—	—	—	6	12
69	—	—	—	—	—	—	—	—	—	6

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These regulations modify the pensions schemes applicable to National Health Service employees in Scotland—

(*a*) by limiting the right to surrender, commute or assign a pension in certain cases;

(*b*) by limiting certain provisions for the reduction, termination or suspension of a pension; and

(*c*) by entitling certain officers, who had elected to keep their former pension rights on entering the National Health Service, to receive a pension after ten years' service at the age of 65 in the case of a man and 60 in the case of a woman.

These amendments are required to ensure that the pension benefits under the National Health Service scheme in Scotland are not less favourable than those which will be available under the National Insurance Act, 1959, and so to permit National Health Service employees in Scotland to be contracted out of the scheme under that Act.