STATUTORY INSTRUMENTS

1961 No. 525

NATIONAL INSURANCE

The National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations, 1961

Made - - - -	*20th March*, 1961
Laid before Parliament	*27th March*, 1961
Coming into Operation	*3rd April*, 1961

Whereas the Treasury has determined under subsection (4) of section 69 of the National Insurance Act, 1946(a), that the Minister of Health 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 67 of the National Health Service Act, 1946(b):

Now, therefore, the Minister of Health, in exercise of the powers conferred on him by section 12 of the National Insurance Act, 1959(c), and by the said subsection (4), as extended by section 15 of the said Act of 1959, and of all other powers enabling him in that behalf hereby makes the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations, 1961, and shall come into operation on the third day of April, 1961.

Interpretation

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

"the Act of 1909" means the Asylums Officers' Superannuation Act, 1909(d);

"the Act of 1937" means the Local Government Superannuation Act, 1937(e);

"the Act of 1946" means the National Insurance Act, 1946;

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

(a) 9 & 10 Geo. 6. c. 67. (b) 9 & 10 Geo. 6. c. 81. (c) 7 & 8 Eliz. 2. c. 47.
(d) 9 Edw. 7. c. 48. (e) 1 Edw. 8 & 1 Geo. 6. c. 68.

" the Northern Ireland Act " means the National Insurance Act (Northern Ireland), 1959(a);

" the Isle of Man Act " means the National Insurance (Isle of Man) Act, 1961 (an Act of Tynwald);

" the principal regulations " means the National Health Service (Superannuation) Regulations, 1955(b);

" the regulations of 1947 " means the National Insurance (Modification of Local Government Superannuation Schemes) Regulations, 1947(c);

" the Benefits Regulations " means the Local Government Superannuation (Benefits) Regulations, 1954(d);

" the appointed day " means the third day of April, 1961;

" local Act scheme " has the same meaning as in the Act of 1937;

" the Minister " means the Minister of Health;

" 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 1959, the Northern Ireland Act or the Isle of Man Act, relating to the payment of graduated retirement benefit;

" non-participating employment " has the meaning assigned to it by subsection (2) of section 7 of the Act of 1959 or the corresponding provision of the Northern Ireland Act or the Isle of Man Act, as the case may be;

" officer " has the meaning assigned to it by the principal regulations and includes a practitioner within the meaning of those regulations;

" 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 67 of the National Health Service Act, 1946, to retain rights corresponding with those which he previously enjoyed under such a scheme, but the expression does not include any superannuation scheme mentioned in the schedule to these regulations;

" participating employment ", in relation to any period which is reckonable as service for the purposes of the principal regulations, means any employment in which a person is required to pay graduated contributions under the Act of 1959, the Northern Ireland Act or the Isle of Man Act, or would be required to pay such contributions if the amount paid in any income tax week on account of his remuneration exceeded the amount first mentioned in paragraph (*b*) of subsection (1) of section 1 of the Act of 1959, or the corresponding provision of the Northern Ireland Act or the Isle of Man Act, as the case may be, but the expression does not include any period of employment on national service in respect of which contributions are paid under the provisions of the principal regulations if, immediately prior to entering national service, the person was in non-participating employment;

" pension " means a pension payable under regulation 8 of the principal regulations or any corresponding benefit which is payable pursuant to an optants scheme;

(a) 1959, c. 21 (N.I.). (b) S.I. 1955/1084 (1955 I, p. 1270).
(c) S.R. & O. 1947/1245 (Rev. XVI, p. 273: 1947 I, p. 1498).
(d) S.I. 1954/1048 (1954 II, p. 1595).

"retiring remuneration" means—

(*a*) in relation to an officer other than a practitioner, the average remuneration of that officer for the purposes of the principal regulations; and

(*b*) in relation to a practitioner, the annual average of the remuneration on which his pension is calculated:

Provided that in the case of an officer whose pension is not calculated by reference to remuneration, the expression means the annual average of his remuneration for the purposes of the optants scheme during a period of three years ending with the last day of his service;

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

(2) References in these regulations to the provisions of any enactment, scheme or regulation 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 regulation, including these regulations.

(3) For the purposes of these regulations no account shall be taken of fractions of a penny less than a halfpenny and fractions of a penny of a halfpenny or more shall be treated as a penny.

(4) The Interpretation Act, 1889(a), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament and as if these regulations and the regulations hereby revoked were Acts of Parliament.

Modification of principal regulations, schemes, etc.

3. The principal regulations and, so far as it concerns an officer, any optants scheme shall, as from the appointed day, have effect subject to the modifications contained in these regulations.

PART II

MODIFICATION OF CONTRIBUTIONS AND CERTAIN OTHER PAYMENTS

Reduction of contributions

4. Subject to the provisions of these regulations, the amount of the contributions payable by an officer under the principal regulations in respect of any period of participating employment shall be reduced by an amount calculated at whichever of the rates specified in paragraphs (*a*) or (*b*) hereunder is the greater, that is to say—

(*a*) a rate equivalent to one per cent. per annum of his remuneration as ascertained in accordance with the principal regulations or, if his remuneration is at a rate exceeding seven hundred and eighty pounds per annum, the rate of seven pounds sixteen shillings per annum; or

(*b*) (i) in the case of a man, and of a woman who is a nurse, mental health officer, physiotherapist, midwife or health visitor, the rate of three pounds and eight pence per annum; or

(ii) in the case of a woman serving in any other capacity, the rate of three pounds five shillings per annum.

Officers whose contributions are not subject to reduction in connection with the Act of 1946

5. In the case of an officer to whom, by virtue of paragraphs (5), (8), (9) or (11) of regulation 52 of the principal regulations, paragraph (1) of that

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

regulation does not for the time being apply, there shall be deducted from the amount by which the contributions payable by that officer are to be reduced under the last foregoing regulation an amount calculated at the rate of three pounds and eight pence per annum if the officer belongs to any class mentioned in sub-paragraph (i) of paragraph (*b*) of that regulation or three pounds five shillings per annum if she belongs to the class mentioned in sub-paragraph (ii) of that paragraph.

Reduction of contributions payable by optants

6.—(1) Subject to the provisions of these regulations, the contributions (if any) payable by an officer in pursuance of an optants scheme shall be reduced in the manner provided by regulation 4 of these regulations:

Provided that any contributions so payable which are not subject to reduction in connection with the Act of 1946 shall be reduced in the manner provided by regulation 5 of these regulations.

(2) In the case of an officer who has elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him under the Act of 1909 and who, prior to the coming into operation of the National Health Service Act, 1946, was an officer or servant of the first class for the purposes of the Act of 1909 and whose contributions are subject to the like reduction as is required by regulation 4 of the regulations of 1947, the rate at which the contributions payable by the officer are to be reduced under regulation 4 of these regulations shall be reduced as provided in regulation 5 of these regulations and increased by the rate at which the contributions payable by that officer were required to be reduced under regulation 4 of the regulations of 1947.

(3) In the case of an officer who has elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him under the Act of 1937 or under the Benefits Regulations and whose contributions are subject to the like reduction as is required by regulation 11 of the regulations of 1947, the rate at which the contributions payable by the officer are to be reduced under regulation 4 of these regulations shall be reduced as provided in regulation 5 of these regulations and increased by the amount by which the contributions payable by that officer were required to be reduced under the said regulation 11.

Persons in part-time employment

7.—(1) Where a person whose contributions are subject to reduction under this part of these regulations is an officer in the part-time employment of two or more employing authorities, the rate at which his contributions are to be reduced under regulation 4 of these regulations shall, in the case of contributions payable to an employing authority which is not for the time being treated as his employer for the purposes of the Act of 1946, be reduced as provided in regulation 5 of these regulations.

(2) Where a person whose contributions are subject to reduction under this part of these regulations is an officer in the part-time employment of one or more employing authorities and is also employed in other employment in which he is not an officer and his employer in that other employment is treated as his employer for the purposes of the Act of 1946, the rate at which his contributions are to be reduced under regulation 4 of these regulations shall be reduced as provided in regulation 5 of these regulations.

Mental Health Officers

8. Where a mental health officer whose contributions are subject to reduction under regulation 4 of these regulations is entitled by virtue of

regulation 51 of the principal regulations to reckon any year of contributing service as such an officer as if it were two years, the contributions payable by him in respect of any year so reckonable shall be further reduced by the sum of three pounds and eight pence.

Employers' contributions

9. The contributions to be paid by an employing authority in respect of any period of participating employment of an officer shall be reduced in the like manner as provided in regulation 4 of these regulations and, in the case of an officer to whom regulation 8 of these regulations applies, in that regulation:

Provided that in relation to an officer whose contributions, if any, are not subject to reduction in connection with the Act of 1946, the rate of reduction shall be varied as provided in regulation 5 of these regulations.

Exclusion of existing provisions for reduction

10. So long as the contributions payable by any officer or employing authority are subject to reduction in accordance with this part of these regulations, those contributions shall not be subject to reduction under regulation 52 of the principal regulations or under any optants scheme.

Additional contributory payments

11.—(1) An additional contributory payment, made by an officer in respect of any period of participating employment or period of non-participating employment in respect of which a payment in lieu of contributions is required to be made under the Act of 1959, shall not be subject to reduction under sub-paragraph (5) of paragraph 6 of the second schedule to the principal regulations but shall be reduced in accordance with paragraph (2) of this regulation.

(2) An additional contributory payment required to be reduced in accordance with this regulation shall be calculated by reference to three-quarters of the relevant percentage specified in Table I, II, III or IV in the second schedule to the principal regulations for so much of the officer's remuneration as does not exceed seven hundred and eighty pounds per annum and by reference to the relevant percentage so specified for so much of the remuneration (if any) as exceeds that amount.

Reduction of transfer values

12.—(1) The reference in regulation 83 of the principal regulations to the regulations for the time being in force under section 29 of the Act of 1937 shall be construed as a reference to those regulations as modified by regulations made under subsection (4) of section 69 of the Act of 1946 as extended by section 15 of the Act of 1959.

(2) Where a transfer value which under paragraph (1) of regulation 79 of the principal regulations falls to be calculated in accordance with the fourth schedule to those regulations is payable for a period of service of one month or more, which is, or which includes, service in participating employment or in non-participating employment at the end of which a payment in lieu of contributions is required to be made under the Act of 1959, the transfer value or such part of it as is attributable to the period of such employment, shall, in lieu of any reduction which would otherwise be required to be made by paragraph 5 of the said fourth schedule, be reduced in accordance with this regulation and the remainder (if any) of the transfer value, if it is subject to reduction in accordance with the said paragraph 5, shall be reduced in accordance therewith.

(3) The transfer value, or such part of it as is attributable to the period of any such employment as is mentioned in the last foregoing paragraph, shall be reduced by an amount equal to a quarter of the aggregate of the sums calculated in accordance with paragraphs 3 and 4 of the said fourth schedule in respect of that period on so much of the officer's remuneration as does not exceed seven hundred and eighty pounds per annum:

Provided that where a transfer value becomes payable in respect of any person whose contributions were not subject to reduction in connection with the passing of the Act of 1946 and either the contributions payable by him in his former employment have been subject to reduction under regulation 5 of these regulations or a payment in lieu of contributions has been made under the Act of 1959 on his ceasing to hold that employment, there shall be added to the transfer value or part as reduced in accordance with this regulation the amount by which the transfer value or part would, but for this regulation, have been reduced under paragraph 5 of the said fourth schedule.

Contributions deemed to have been made

13. If in respect of any period an officer pays no contributions under the principal regulations or under any optants scheme by virtue of the fact that the amount of the reduction in his contributions provided for by these regulations equals or exceeds the amount of his contributions, he shall nevertheless be deemed for the purposes of sub-paragraph (*a*) of paragraph (1) of regulation 29 of the principal regulations, or the corresponding provision of any optants scheme, to have made the contributions required by that regulation or scheme in respect of that period.

PART III

MODIFICATION OF BENEFITS, ETC.

Reduction of pensions

14.—(1) Subject to the provisions of paragraph (2) of this regulation, where any period of service reckonable in calculating the amount of any pension to which an officer is entitled under the principal regulations 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 pensionable age within the meaning of the Act of 1946, 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 of these regulations and any provision of the principal regulations or of any optants scheme for the reduction of the pension in connection with the passing of the Act of 1946 shall cease to apply in relation to that part of the pension:

Provided that the reduction required to be made in accordance with this part of these regulations shall not be less than that required to be made under any provision of the principal regulations or of any optants scheme for the reduction of the pension in connection with the passing of the Act of 1946.

(2) For the purposes of this part of these regulations, no account shall be taken of any period of participating employment occurring in an income tax year if no graduated contributions have been paid under the Act of 1959 in respect of any such period during that year.

(3) Notwithstanding anything in the last foregoing paragraph, a period of employment as an officer, in respect of which a payment in lieu of

contributions is required to be made under the Act of 1959, shall be treated for the purposes of this part of these regulations as a period of participating employment.

(4) No account shall be taken of the reduction of any pension under this part of these regulations—

(*a*) in calculating the amount of any widow's pension payable under the principal regulations or of any widow's or dependant's pension payable under an optants scheme; or

(*b*) for the purposes of so much of the proviso to paragraph (1) of regulation 9 of the principal regulations as provides that an officer's pension shall not exceed forty-five eightieths of his average remuneration; or

(*c*) for the purposes of sub-paragraph (*a*) of paragraph (1) of the first schedule to the principal regulations (which limits the extent to which a pension can be surrendered).

15.—(1) Where a pension payable to any officer would, apart from these regulations, be subject to reduction in accordance with regulation 52 of the principal regulations, so much of that pension as is attributable to any period of participating employment shall be reduced—

(*a*) for each year of such employment which is reckonable as contributing service, otherwise than as a practitioner, in calculating the amount of that pension, by a sum equal to one two-hundred-and-fortieth of so much of the retiring remuneration as does not exceed seven hundred and eighty pounds per annum;

(*b*) for each year of such employment which is reckonable as non-contributing service in calculating the amount of the pension, by a sum equal to one four-hundred-and-eightieth of so much of the retiring remuneration as aforesaid; and

(*c*) for each year ending on the thirty-first day of March, or part of such year, of such employment which is contributing service as a practitioner, by a sum equal to one half per cent. of so much of his remuneration in that year, or part of a year, as is at a rate not exceeding seven hundred and eighty pounds per annum:

Provided that where a mental health officer is entitled by virtue of regulation 51 of the principal regulations to reckon any year of contributing service as such an officer as if it were two 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 one pound fourteen shillings in respect of each such year.

(2) Where an officer, other than an officer who is a registered medical or dental practitioner, becomes entitled to a pension on ceasing to be employed in non-participating employment, no account shall be taken for the purposes of this regulation of any retiring remuneration in excess of the amount by reference to which his employment was non-participating employment in accordance with a certificate issued under section 7 of the Act of 1959.

Reduction of pensions payable to certain classes of officer

16. Where a pension payable to an officer would, apart from these regulations, be subject to reduction under sub-paragraph (*a*) or (*b*) of paragraph (3) of regulation 52 of the principal regulations, 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*) or sub-paragraph (*b*), as the case may be, and shall be further reduced in accordance with regulation 15 of these regulations but shall be increased by the sum of one pound fourteen shillings for each year of contributing service and seventeen shillings for each year of non-contributing service comprised in that period:

Provided that where a mental health officer to whom this regulation applies is entitled by virtue of regulation 51 of the principal regulations to reckon any year of contributing service as such an officer as if it were two years, so much of the pension as is attributable to any additional year so reckonable shall be reduced solely in accordance with the said sub-paragraph (*a*) or sub-paragraph (*b*), as the case may be.

Service in excess of forty years

17. Where the period reckonable for the calculation of a pension exceeds forty years' contributing service or forty years' contributing and non-contributing service, the non-contributing service being reckoned at half its actual length, then—

(*a*) in the case of any pension to which regulation 15 of these regulations applies, there shall be deducted from the amount by which the pension is to be reduced under that regulation the sum of one pound fourteen shillings in respect of each completed year of such excess period; and

(*b*) in the case of a pension to which regulation 16 of these regulations applies, there shall be deducted from the amount by which the pension is to be reduced under that regulation an amount in respect of each such year equal to that by which the pension would have been reduced under sub-paragraph (*a*) or (*b*) of paragraph (3) of regulation 52 of the principal regulations had the year been reckonable as contributing service.

Pensions not subject to reduction in connection with the Act of 1946

18. Where a pension payable to an officer is not subject to reduction in accordance with paragraph (3) of regulation 52 of the principal regulations 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 regulation 15 of these regulations but shall be increased by the sum of one pound fourteen shillings for each year of contributing service and seventeen shillings for each year of non-contributing service comprised in that period.

Pensions payable to optants

19.—(1) Subject to the provisions of this regulation, a pension payable to an officer which falls to be calculated in accordance with the provisions of an optants scheme shall be reduced in the like manner as is provided in regulation 15 or regulation 18 of these regulations, as the case may be.

(2) Where a fraction of a year of service is taken into account in calculating the amount of a pension payable to an officer under an optants scheme, the reduction to be made under the last foregoing paragraph shall include in respect of that fraction of a year the equivalent fraction of the amount by which the pension would have been reduced under regulation 15 or regulation 18 of these regulations, as the case may be, if that fraction of a year had been a complete year.

(3) Where an officer has elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him under the Act of 1909, the Act of 1937, the Benefits Regulations or a local Act scheme and any

pension payable to him would, apart from these regulations, be subject to the like reduction as is required by regulation 5 or regulation 11 of the regulations of 1947, regulation 28 of the Benefits Regulations or the corresponding provision of the local Act scheme, so much of the pension as is attributable to any period of participating employment shall be reduced in accordance with whichever of the aforesaid provisions was applicable and shall be further reduced in accordance with regulation 15 of these regulations but shall be increased by the sum of one pound fourteen shillings for each year of contributing service, by a fraction of that sum equivalent to any fraction of a year taken into account as stated in the last foregoing paragraph, and by the sum of seventeen shillings for each year of non-contributing service comprised in that period.

(4) Where an officer has elected to retain rights to superannuation benefits corresponding with those previously enjoyed by him under the Superannuation Acts or other optants scheme not requiring the payment of contributions, so much of any pension payable to him as is attributable to any period of participating employment shall be reduced by the sum of one pound six shillings per annum for every unit, ascertained in accordance with subsections (3) and (4) of section 4 of the Act of 1959, of graduated contributions paid, or treated by virtue of subsection (3) of section 7 of that Act as having been paid, by him during such period of participating employment.

Reduction of retiring allowances, short service gratuities and death gratuities

20.—(1) Subject to the provisions of this regulation, if no pension is payable to an officer, but there is payable to or in respect of him a retiring allowance under regulation 8 of the principal regulations, a short service gratuity under regulation 11 of those regulations, a death gratuity under regulation 13 of those regulations, or a benefit under an optants scheme corresponding with any such allowance or gratuity, and by reason of the cessation of his employment, a payment in lieu of contributions is required to be made under the Act of 1959, or such a payment has previously been made under the Act of 1959, the Northern Ireland Act or the Isle of Man Act in circumstances not involving a return of contributions, the retiring allowance, short service gratuity, death gratuity or similar benefit 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 regulation—

(*a*) on more than one occasion ; or

(*b*) if the payment was made on the termination of any period of employment which is not reckonable as service for the purposes of the principal regulations ; or

(*c*) if the payment is one which has been reduced under regulation 13 of the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations, 1960(a), or any corresponding regulation in Northern Ireland or the Isle of Man.

Reduction of pension attributable to added years

21. If an officer has made payments under regulation 32 of the principal regulations with a view to the reckoning of added years, and those payments have been subject to reduction in accordance with regulations made under subsection (4) of section 69 of the Act of 1946 as extended by section 15 of

(a) S.I. 1960/1103 (1960 II, p. 2244).

the Act of 1959, the period in respect of which those payments have been made shall be treated for the purposes of these regulations as a period of service in participating employment and the part of any pension to which an officer subsequently becomes entitled which is attributable to that period shall be reduced in accordance with this part of these regulations.

Reduction of pension in respect of other reckonable employment

22. Where a person has become employed as an officer after having been employed in other employment (in this regulation referred to as "his former employment") and by virtue of any provision in the principal regulations, his service in his former employment is to be reckoned in any manner and to any extent as service as an officer then, if his former employment included any period of participating employment or non-participating employment at the end of which a payment in lieu of contributions had been made under the Act of 1959, the Northern Ireland Act or the Isle of Man Act, so much of any pension payable to him as is attributable to any such period shall, in lieu of any reduction for which this part of these regulations provides, be reduced in the like manner as if—

(*a*) he had continued in his former employment and retired from it on the day when he ceased to be employed as an officer; and

(*b*) any modification provision applicable to him immediately before he ceased to be employed in his former employment had been applied in relation to the period of his service before that date.

Adjustments following payments in lieu of contributions

23.—(1) Subject to the provisions of this regulation, where an officer leaves employment or dies in circumstances in which under the principal regulations or under any optants scheme there is payable to or in respect of him an amount by way of return of contributions and a payment in lieu of contributions under the Act of 1959, the Northern Ireland Act or the Isle of Man Act has previously been made in respect of him in circumstances not involving a return of contributions, the amount payable to or in respect of him by way of return of contributions shall be reduced by a sum equal to the amount, or aggregate of the amounts, by which, under subsection (5) of section 10 of the Act of 1959, or under the corresponding provision of the Northern Ireland Act or the Isle of Man Act, as the case may be, any payment by way of return of contributions could have been reduced if one had been made at the time when the previous payment in lieu of contributions was made.

(2) No payment in lieu of contributions shall be taken into account for the purposes of this regulation—

(*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, 1960, or any corresponding regulation in Northern Ireland or the Isle of Man.

(3) Where a payment to any officer by way of return of contributions is reduced under subsection (5) of section 10 of the Act of 1959, or under paragraph (1) of this regulation or under any corresponding provisions in Northern Ireland or the Isle of Man, the amount by which the payment is reduced shall be treated for the purposes of any subsequent return of contributions to which the officer may become entitled as having been returned to and retained by the officer.

PART IV
NON-PARTICIPATION

Interpretation of Part IV

24. In this part of these regulations, unless the context otherwise requires—

"election" means an election with a view to the issue, variation, cancellation or surrender of a certificate that any employment is to be treated for the purposes of the Act of 1959, either generally or in relation to any description of persons specified in that certificate, as a non-participating employment; and

"specified employments" means employments in which a person's service qualifies him for retirement benefits by way of pension under section 67 of the National Health Service Act, 1946.

Elections, etc. to be made by the Minister

25. In relation to any specified employment—

(*a*) the Minister hereby directs that every election shall be made or revoked by him instead of by the employer; and

(*b*) those things which are required or authorised to be done by or to the employer under—

(i) subsection (3) of section 7 of the Act of 1959 (which relates to the making of payments in lieu of contributions);

(ii) the National Insurance (Non-participation—Certificates) Regulations, 1959(**a**);

(iii) the National Insurance (Non-participation—Appeals and References) Regulations, 1959(**b**); and

(iv) the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations, 1960,

shall be done by or to the Minister.

Employments to be treated for certain purposes as employments under a single employer

26. The specified employments shall be treated for the purposes of Part II of the Act of 1959 and of any regulations made thereunder as employments under a single employer different from the employer in any other employment.

Recovery of payments in lieu of contributions

27. The Minister shall be entitled to recover from the employer of any person engaged in a specified employment, except where the employer is a body constituted under the National Health Service Act, 1946, the amount of any payment in lieu of contributions made by the Minister in respect of the person, less any amount by which a benefit or refund of contributions paid or made to or in respect of the person has been reduced in consequence of that payment.

Revocation

28. The National Insurance (Non-participation—National Health Service) Regulations, 1960(**c**), are hereby revoked:

Provided that without prejudice to the application of section 38 of the Interpretation Act, 1889 (which relates to the effect of repeals) insofar as any notice, direction, consent, approval, election, exemption or certificate

(a) S.I. 1959/1860 (1959 II, p. 1867). (b) S.I. 1959/2119 (1959 II, p. 1856).
(c) S.I. 1960/888 (1960 II, p. 2271).

given in pursuance of any regulation revoked by these regulations or any condition imposed, or any proceedings instituted, or any other thing done under any such regulation could have been made, given, imposed, instituted or done under or by a corresponding provision of these regulations, it shall not be invalidated by these regulations but shall have effect as if it had been made, given, imposed, instituted or done under or by that provision.

SCHEDULE

SUPERANNUATION SCHEMES NOT INCLUDED WITHIN THE EXPRESSION "OPTANTS SCHEME"

Any scheme comprised in the Federated Superannuation System for Universities.

The Edgar Allen Physical Treatment Centre Pension Scheme.

The Federated Superannuation Scheme for Nurses and Hospital Officers.

The German Hospital Pension Scheme.

The Glasgow Royal Samaritan Hospital Pension Scheme.

The Holloway Sanatorium Superannuation Scheme.

The Manchester University Service Staffs Superannuation Scheme.

The Old Manor, Salisbury, Pension and Life Assurance Scheme.

The Preston Royal Infirmary Workmen's Pension Scheme.

The Public Health Laboratory Service Group Pension Scheme.

The Radcliffe Infirmary Old and New Superannuation Schemes.

The Reedyford Memorial Hospital Pension Scheme.

The Southend General Hospital Pension Scheme.

The Stoke Park Colony Scheme.

The Swansea General and Eye Hospital Pension Scheme.

The Warneford Hospital Pension Scheme.

The York County Hospital Pension Scheme.

Given under the official seal of the Minister of Health this twentieth day of March, nineteen hundred and sixty-one.

(L.S.) *J. Enoch Powell,*
Minister of Health.

EXPLANATORY NOTE

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

These regulations modify the National Health Service Superannuation Scheme in connection with the operation of the National Insurance Act, 1959, and re-enact with amendments the National Insurance (Non-participation—National Health Service) Regulations, 1960.

Part I of the regulations contains definitions of words and expressions used and provides that the regulations made under section 67 of the National Health Service Act, 1946 (under which the Scheme was established) are to

be modified in accordance with the succeeding provisions of the regulations. The Scheme includes provision for the optional retention of superannuation rights enjoyed in certain previous employments. These rights also are modified by the regulations.

Part II of the regulations provides that superannuation contributions payable under the Scheme are to be reduced during periods of participating employment for the purposes of the Act of 1959. The method of reduction takes account of any reduction already required to be made in connection with the National Insurance Act, 1946, and provides for a single consolidated reduction. A corresponding reduction is made in any additional contributory payment or transfer value payable in respect of a period for which reduced contributions have been paid.

Under Part III of the regulations, pensions payable under the Scheme are reduced where any service reckonable for the pension also qualifies the employee for graduated retirement benefit under the Act of 1959. Here again, any reduction required to be made under the National Insurance Act, 1946, is consolidated. Lump sum benefits under the Scheme in respect of non-participating employment are reduced to take account of payments in lieu of contributions which an employer is required to make under the Act of 1959 on the termination of non-participating employment. Where the previous service of any employee in other employment outside the National Health Service has become reckonable under the Scheme, the pension attributable to that service will be reduced in the same way as it would have been reduced in the previous employment.

Part IV re-enacts with amendments the National Insurance (Non-participation—National Health Service) Regulations, 1960. The regulations now require the Minister to act instead of the employer, not only in deciding whether persons who are subject to the Scheme should not participate in the scheme of retirement benefits provided for in the Act of 1959, but also for the purpose of making payments in lieu of contributions and all matters relating to the assurance of equivalent pension benefits when a period of non-participating employment ends.

The regulations also provide that, for the purposes of Part II of the Act of 1959, employments subject to the Scheme are to be treated as a single employment, and enable the Minister to recover from employing authorities (other than those set up under the National Health Service Act, 1946) the amount of any payments in lieu made by the Minister under the Act of 1959 in respect of their employees.