1965 No. 2179

NATIONAL INSURANCE

The National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations 1965

Made - - - -	*28th December* 1965
Laid before Parliament	*5th January* 1966
Coming into Operation	*17th January* 1966

Whereas the Treasury has determined under section 110 of the National Insurance Act 1965(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 sections 62 and 110 of the National Insurance Act 1965, and of all other powers enabling him in that behalf, and after consultation with such bodies as appear to him fairly to represent the interests of employed persons of the classes concerned and their employers, 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 1965, and shall come into operation on 17th January 1966.

Interpretation

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

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

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

" the Act of 1959 " means the National Insurance Act 1959(e);

" the Act of 1965 " means the National Insurance Act 1965;

(a) 1965 c. 51.
(b) 9 & 10 Geo. 6. c. 81.
(c) 9 Edw. 7. c. 48.
(d) 1 Edw. 8 & 1 Geo. 6. c. 68.
(e) 7 & 8 Eliz. 2. c. 47.

" 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 1961(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);

" flat rate contributions " means contributions payable under section 3 of the Act of 1965, or any provision which that section replaced or under the corresponding provision of the Northern Ireland Act or the Isle of Man Act;

" graduated contributions " means contributions payable under section 1(1)(*b*) of the Act of 1959, section 4 of the Act of 1965 or the corresponding provision of the Northern Ireland Act or the Isle of Man Act;

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

" maximum graduated remuneration " means, for any period of employment or part of a period prior to 6th January 1964, £780 per annum, and for any period of employment or part of a period commencing on or after that date the maximum annual amount on which, during that period or part, graduated contributions were payable for any one employment;

" 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 1965, 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 section 56 of the Act of 1965 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 section 67(1)(*h*) 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 schedule 1 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

(a) 1959 c. 21 (N.I.). (b) S.I. 1961/1441 (1961 II, p. 2824).
(c) S.R. & O. 1947/1245 (Rev. XVI, p. 273: 1947 I, p. 1498).
(d) S.I. 1954/1048 (1954 II, p. 1595).

contributions or would be 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 1965, 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;

" payment in lieu of contributions " means a payment in lieu of contributions under the Act of 1959, the Act of 1965, the Northern Ireland Act or the Isle of Man Act;

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

" 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 1965, 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 have effect subject to the modifications contained in these regulations.

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

PART II

MODIFICATION OF CONTRIBUTIONS AND CERTAIN OTHER PAYMENTS

Reduction of contributions

4.—(1) 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 sub-paragraphs (*a*) or (*b*) hereunder is the greater, that is to say—

(*a*) a rate equivalent to one per cent. of so much of his remuneration as does not exceed the maximum graduated remuneration for the time being, 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.

(2) For the purposes of paragraph (1) of this regulation the remuneration of an officer means his remuneration as ascertained for the purposes of the principal regulations and, in the case of an officer employed by two or more employing authorities, means the aggregate of his remuneration from all participating employments under employing authorities.

Officers whose contributions are not subject to reduction in connection with the making of flat rate contributions

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 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 (*b*)(i) of paragraph (1) of that regulation or three pounds five shillings per annum if she belongs to the class mentioned in sub-paragraph (*b*)(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 making of flat rate contributions 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 regula-

tions 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. 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 1965, 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 (not being such an officer as is mentioned in regulation 5 of these regulations) 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.

Reduction of employing authority's contributions

9.—(1) Subject to paragraph (2) of this regulation 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 is 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 making of flat rate contributions, the rate of reduction shall be varied as provided in regulation 5 of these regulations.

(2) Where the contributions payable by an employing authority are calculated in the aggregate under regulation 7(3) of the principal regulations, an aggregate reduction shall be made for the purposes of this regulation by a method approved by the Minister.

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 the corresponding provision of 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 at the end of which a payment in lieu of contributions has been made or is required to be made shall not be subject to reduction under paragraph 6(5) of schedule 2 to the principal regulations but shall be reduced in accordance with the succeeding paragraphs of this regulation.

(2) The payment of the relevant percentage of the officer's remuneration specified in Table I, II, III or IV in schedule 2 to the principal regulations shall be reduced—

(*a*) in respect of any period of participating employment, by an amount equivalent to one-quarter of such relevant percentage of so much of the officer's remuneration as does not exceed the maximum graduated remuneration for that period, and

(*b*) in respect of any period of non-participating employment at the end of which a payment in lieu of contributions has been made or is required to be made, by an amount equal to one-quarter of such relevant percentage of the remuneration taken into account in calculating the payment in lieu of contributions.

(3) Where any additional contributory payment would, apart from this regulation, have been reduced by any amount in accordance with paragraph 6(5) of schedule 2 to the principal regulations, the reduction required by this regulation shall be of not less than that amount.

(4) In reckoning the reduction required by this regulation there shall be excluded from any period mentioned in paragraph (1) any period of service which would not be reckonable for the purpose of calculating reduction of benefit under Part III of these regulations.

Reduction of transfer values

12.—(1) The reference in regulation 82 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 or having effect under section 110 of the Act of 1965.

(2) Where a transfer value which under regulation 78(1) of the principal regulations falls to be calculated in accordance with schedule 3 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 has been or is required to be made being service which is reckonable for the purposes of calculating reduction of benefit under Part III of these regulations, 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 schedule 3, 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 paragraph (2) of this regulation, shall be reduced by an amount equal to one quarter of the aggregate of sums calculated in accordance with paragraphs 3 and 4 of the said schedule 3—

(*a*) in respect of any such period or part of such period prior to 6th January 1964, on so much of the person's remuneration as does not exceed seven hundred and eighty pounds per annum, and

(*b*) in respect of any such period or part of such period after 5th January 1964, on so much of the person's remuneration as does not exceed the maximum graduated remuneration for that period or part:

Provided that—

(i) in respect of any period of such employment as is mentioned in paragraph (2) of this regulation for which no reduction in pension is required to be made under regulation 52(3) of the principal regulations, there shall be added to the transfer value or part as reduced the amount by which the transfer value or part would have been reduced under paragraph 5 of the said schedule 3 if the benefit referred to in that paragraph had fallen to be reduced in pursuance of regulation 52(3)(*c*) of the principal regulations, but the transfer value shall not thereby be increased to an amount greater than would have been the case if it had not been subject to modification under this regulation;

(ii) the reduction in respect of any period of non-participating employment at the end of which a payment in lieu of contributions has been or is required to be made shall be calculated as if the person's remuneration had been the remuneration taken into account in calculating the payment in lieu of contributions; and

(iii) where the amount of any reduction under this regulation is an aggregate of sums calculated by reference to different periods, any number of days in such a period comprising less than a whole month shall be disregarded.

(4) If, in consequence of the operation of this regulation or of paragraph 5 of the said schedule 3, no sum is payable in respect of any transfer value, payment of the transfer value shall, for the purposes of any enactment, rule or regulation requiring such payment, be deemed to have been made.

(5) Where before the date of coming into operation of these regulations a person has notified the Minister that he desires the provisions of regulation 78(1) of the principal regulations to apply to him but no transfer value has been paid before that date, the amount of the transfer value shall be calculated as if these regulations had not been made.

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 regulation 29(1)(*a*) of the principal regulations, or the corresponding provision of any optants scheme, to have made the contributions required by the principal regulations or scheme in respect of that period.

PART III

MODIFICATION OF BENEFITS, ETC.

Reduction of pensions

14.—(1) Subject to the provisions 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 1965, 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 making of flat rate contributions 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 making of flat rate contributions.

(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 in respect of any such period during that year.

(3) Notwithstanding anything in the last foregoing paragraph, a period of employment as an officer, at the end of which a payment in lieu of contributions has been or is required to be made, 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 the proviso to regulation 9(1) of the principal regulations (which provides for the maximum and minimum pensions to be granted in certain circumstances); or

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

(5) Where a pension granted on the grounds of incapacity to perform the duties of an employment by reason of permanent ill-health or infirmity of mind or body is, in pursuance of any provision in that behalf in the principal regulations or an optants scheme, payable at a minimum rate, the amount (if any) by which such minimum rate exceeds the amount which would have been payable apart from such provision shall not for the purposes of this Part of these regulations, be treated as attributable to any period of service in participating employment.

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 the maximum graduated remuneration for the period in question;

(*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 31st March, or part of such year, of such employment which is reckonable as 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 the maximum graduated remuneration in force—

(i) in respect of the year ending 31st March 1962 or part of such year, on 3rd April 1961, or

(ii) in respect of any subsequent year or part of such year, at the commencement of the year:

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, or would have become entitled to a pension in those circumstances had he not continued in employment for more than five years after attaining pensionable age within the meaning of the Act of 1965, then, except as provided in paragraph (3) of this regulation, 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 the certificate of the registrar of non-participating employments in force during the period of his employment.

(3) Paragraphs (1) and (2) of this regulation shall apply for the reduction of so much of any pension mentioned therein as is attributable to any period of employment referred to in regulation 14(3) of these regulations as if the retiring remuneration had been the remuneration taken into account in calculating the payment in lieu of contributions payable at the end of that period.

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 regulation 52(3)(*a*) or (*b*) 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 the length at which it is calculated under regulation 33 of the principal regulations, 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 regulation 52(3)(*a*) or (*b*) of the principal regulations had the year been reckonable as contributing service.

Pensions not subject to reduction in connection with the making of flat rate contributions

18. Where a pension payable to an officer is not subject to reduction in accordance with regulation 52(3) 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 section 36(2) and (3) of the Act of 1965, of graduated contributions paid, or treated by virtue of section 58 of that Act as having been paid, by him during such period of participating employment.

Reduction of pension in respect of other reckonable employment

20.—(1) 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, any service reckonable by him in his former employment is to be reckoned in any manner and to any extent as service as an officer then, if his reckonable service in his former employment included any period of participating employment or non-participat-

ing employment at the end of which a payment in lieu of contributions had been made, 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

(*a*) in the like manner as if—

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

(ii) 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, or

(*b*) if no modification provision was applicable to him at that time and the transfer value payable in respect of that employment had been adjusted to take account of the payment in lieu of contributions, by the amount of the graduated retirement benefit payable under the Act of 1965, the Northern Ireland Act or the Isle of Man Act, as the case may be, in respect of the payment in lieu of contributions.

(2) Where in pursuance of regulation 30, 31 or 32 of the principal regulations an officer continues to make the like additional contributory payments or payments in respect of added years as he had been entitled to make in his former employment and those payments are reduced in accordance with any provision corresponding with regulation 11 of these regulations, or any provision similar in effect to that regulation but relating to the reduction of payments in respect of added years, the part of any pension to which the person subsequently becomes entitled which is attributable to those payments shall be reduced in the like manner as is provided in paragraph (1) of this regulation as if that part of the pension had been attributable to a period of such former employment.

Reduction of retiring allowances, short service gratuities and death gratuities

21.—(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, or such a payment has previously been made in respect of him, 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.

Adjustments following payments in lieu of contributions

22.—(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 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 section 60(5) of the Act of 1965, 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 section 60(5) of the Act of 1965, or under paragraph (1) of this regulation or under any corresponding provisions contained in or made under any other enactment (including any such provisions in force 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 under the principal regulations as having been returned to and retained by the officer.

Reckoning of service for the purposes of the modification of pension

23. For the purpose of calculating the amount of the reduction of any pension under regulation 52 of the principal regulations or under these regulations and for determining the length of any periods for which different reductions are to be made thereunder—

(*a*) all periods of service otherwise than as a practitioner in respect of which a reduction is required to be made at the like rate shall be aggregated;

(*b*) the period reckonable as contributing service in calculating the amount of the reduction for each aggregate period shall be the number of completed years of all periods of such service comprised in that period;

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

(*c*) the period reckonable as non-contributing service shall be the remainder of each aggregate period after deducting the completed years of contributing service, but if such remainder amounts to a period of less than a year or to a number of years and a period of less than a year, the period of less than a year shall, if it amounts to or exceeds six months, be treated as a year and in any other case be disregarded.

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 1965, 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) section 58 of the Act of 1965 (which relates to the making of payments in lieu of contributions);

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

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

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

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 III of the Act of 1965 and of any regulations made thereunder as

(a) S.I. 1959/1860 (1959 II, p. 1867).
(b) The relevant amending instruments are S.I. 1961/2176, 1963/676, 1965/40 (1961 III, p. 3894; 1963 I, p. 815; 1965 I, p. 47).
(c) S.I. 1959/2119 (1959 II, p. 1856).
(d) The revelant amending instruments are S.I. 1961/1378, 1963/676, 1963/1265, 1963/1988 (1961 II, p. 2662; 1963 I, p. 815; 1963 II, p. 2114; 1963 III p. 4178).

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.

PART V

MISCELLANEOUS

Limitation of surrender, commutation, etc. of pensions

28.—(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 or having effect under section 57(1)(*c*) of the Act of 1965,

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 in respect of any period of service 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 the minimum rate of equivalent pension benefits applicable in respect of that period under the provisions of the Act of 1965.

(2) For the purposes of the last foregoing paragraph, " service " means service in a non-participating employment which is reckonable by an officer for the purpose of calculating the amount of any benefit payable to him, except any earlier period of such service in respect of which—

(*a*) a payment in lieu of contributions has been made; or

(*b*) equivalent pension benefits satisfying the requirements of the Act of 1965 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 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 the Act of 1965.

Rights of Optants

29.—(1) Where an officer has exercised, or is treated as having exercised, an option conferred by regulations made under section 67(1)(*h*) of the National Health Service Act 1946, 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,

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 payable to an officer in accordance with 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 schedule 2 to these regulations appropriate to the earliest age at which he could have satisfied the conditions of the foregoing sub-paragraph:

Provided that an annual pension so payable in respect of any period of service shall not be less than the minimum rate of equivalent pension benefits applicable in respect of that period under the provisions of the Act of 1965; and for this purpose " service " has the same meaning as in regulation 28(2) of these regulations.

(3) In calculating for the purposes of paragraph (2) of this regulation or regulation 79(2) of the principal regulations the amount of the benefit which would have been payable to an officer in the circumstances mentioned therein, no account shall be taken of any reduction required to be made under regulation 52(3) of the principal regulations; but any benefit payable to an officer under paragraph (1) of this regulation or granted under the said regulation 79(2) shall be reduced in accordance with the said regulation 52(3) where the officer has attained, or when he attains, pensionable age within the meaning of the Act of 1965.

Revocation

30. The National Insurance (Modification of National Health Service Superannuation Scheme) Regulations 1961(a), the National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations 1961(b) and the National Insurance (Modification of National Health Service Superannuation Scheme) Regulations 1963(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. 1961/194 (1961 I, p. 304). (b) S.I. 1961/525 (1961 I, p. 1181).
(c) S.I. 1963/2004 (1963 III, p. 4229).

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 1

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 Public Health Laboratory Service Group Pension Scheme.

The Radcliffe Infirmary Old and New Superannuation Schemes.

The Stoke Park Colony Scheme.

The Swansea General and Eye Hospital Pension Scheme.

The Warneford Hospital Pension Scheme.

The York County Hospital Pension Scheme.

SCHEDULE 2

REDUCTION OF BENEFITS UNDER REGULATION 29

PART I—PENSION

Age of person on ceasing to be employed	Percentage reduction to be made under paragraph (2) of regulation 29									
	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 29									
	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

Given under the official seal of the Minister of Health on 28th December 1965.

(L.S.)

Kenneth Robinson,
Minister of Health.

EXPLANATORY NOTE

(*This note is not part of the Regulations.*)

These regulations consolidate with minor amendments the National Insurance (Modification of National Health Service Superannuation (Scheme) Regulations 1961, the National Insurance (National Health Service Superannuation Scheme—Modification and Non-participation) Regulations 1961, and the National Insurance (Modification of National Health Service Superannuation Scheme) Regulations 1963. The regulations provide for the modification of contributions and benefits under the National Health Service Superannuation Scheme in connection with the making of graduated contributions and the payment of graduated benefit under the National Insurance Act 1965.

Part I of the regulations contains definitions of words and expressions used and provides that the Regulations under section 67 of the National Health Service Act 1946 (under which the Scheme was established) are to be modified in accordance with the suceeding provisions of the regulations. The Scheme includes provision for the optional retention of superannuation rights enjoyed in certain previous employments. These rights are also 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 National Insurance Act 1965.

The method of reduction takes account of any reduction already required to be made in connection with flat rate contributions under that Act and provides for a single consolidated reduction. A corresponding reduction is made in any additional contributory payments 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 National Insurance Act 1965. Here again any reduction required to be made in connection with the payment of flat rate benefit under that Act 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 National Insurance Act 1965 on the termination of non-participating employment. Where the previous service of an employee in 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 of the regulations provides that the Minister of Health is to act instead of the National Health Service employing authority in deciding whether persons who are subject to the Scheme should not participate in the scheme of graduated retirement benefits provided for in the National Insurance Act 1965, and also for the purpose of making payments in lieu of contributions under that Act and all matters relating to the assurance of equivalent pension benefits when a period of non-participating employment ends.

Part V of the regulations—

(i) limits the right to surrender, commute or assign a pension in certain cases,

(ii) limits the effect of certain provisions for the reduction, termination or suspension of a pension,

(iii) entitles certain officers who had elected to retain their former pension rights on entering the National Health Service to receive a pension after 10 years service at the age of 65 in the case of a man and 60 in the case of a woman.

These amendments are needed to ensure that pension benefits under the National Health Service Scheme are not less favourable than graduated benefits under the National Insurance Act 1965 and so to permit National Health Service employees to continue to be contracted out of the scheme under that Act.