The National Health Service Act, 1946, annotated : together with various orders and regulations made thereunder / by S.R. Speller.

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THE NATIONAL HEALTH SERVICE ACT, 1946



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THE NATIONAL HEALTH SERVICE ACT, 1946

ANNOTATED

TOGETHER WITH
VARIOUS ORDERS AND REGULATIONS
MADE THEREUNDER

By

S. R. SPELLER, LL.B.

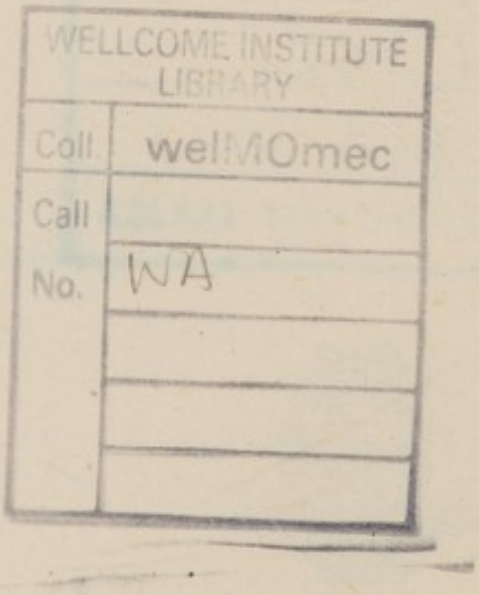
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FOREWORD

I had hoped that this book might be published round about the appointed day for the coming into effect of the major part of the National Health Service Act, 1946 but the number of important regulations and orders made under that Act in the first part of 1948 prevented it, since it was essential to the usefulness of the book not only that I should include them but also that I should endeavour to provide a reasonably comprehensive index to their contents. Nevertheless, taking present difficulties of book production into account, a halt was called towards the end of May to the inclusion of new regulations, as I felt that the bulk of the delegated legislation being by then available, publication at the earliest moment thereafter would be of greater value than an even closer approximation to completeness. My decision was made the more easy by the willingness of my publishers to co-operate in the issue of supplements between the publication of this and any further edition that might be called for.

As this book was going through the press, the National Health Service (Superannuation) (Amendment) Regulations, 1948, and the National Health Service (Transfer of Officers and Compensation) Regulations, 1948, were published in draft as laid before Parliament and it has proved possible to include them both as finally issued and operative. It was not possible, however, to alter the text of the National Health Service (Superannuation) Regulations, 1947, to indicate, without reference over, the precise amendments made therein, as to do so would have involved repaging a considerable part of the book as well as a complete revision of the index. That in turn would have involved a considerable delay in publication. What has been done, however, is to give the necessary references over to the latest regulations by way of side notes, which should prevent the effect of those regulations being overlooked. There is also to be an amending bill to clarify the intention of the Act as regards sale of medical practices, which will also, in line with pledges given that a full-time salaried medical

service will not be introduced without the consent of Parliament, prohibit the establishment of such service under the present Act. As to the present position regarding sale of practices reference should be made to the note to section 35. The broad outline of the projected new bill is explained in a letter from the Ministry of Health to the British Medical Association, published in the *British Medical Journal* and in the *Lancet*, both in issues dated June 5th, 1948.

The haste with which the latter part of this book has had to be prepared for publication has also prevented the achievement of the amount of cross reference which I consider desirable in a work of this kind but I have, I think, done something to repair that defect by provision of a detailed index as well as a supplementary index to statutory instruments received too late for inclusion in the body of the work.

I hope that the book—despite its inevitable limitations—may provide a useful guide to the Act and to delegated legislation thereunder, alike for members of the legal profession and for those engaged in the administration and provision of the health service.

S. R. SPELLER.

1*st*, *July*, 1948.

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CHAPTER 81.

An Act to provide for the establishment of a comprehensive health service for England and Wales, and for purposes connected therewith. [6th November 1946.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

CENTRAL ADMINISTRATION

Duty of Minister

1.—(1) It shall be the duty of the Minister of Health (hereafter in this Act referred to as "the Minister") to promote the establishment in England and Wales of a comprehensive health service designed to secure improvement in the physical and mental health of the people of England and Wales and the prevention, diagnosis and treatment of illness, and for that purpose to provide or secure the effective provision of services in accordance with the following provisions of this Act.

(2) The services so provided shall be free of charge, except where any provision of this Act expressly provides for the making and recovery of charges.

Charges may be made for certain appliances and for replacement and repair of appliances in certain circumstances, (s. 3 (2)); to part-paying patients for hospital accommodation in single rooms or small wards, (s. 4); to private patients in hospitals (s. 5); for articles provided by a local health authority for expectant and nursing mothers and young children, (s. 22 (2)); by a local health authority for care, after-care, etc., of persons suffering from illness or mental defectiveness, (s. 28 (2)) and for domestic help provided by a local health authority in cases of illness, etc., (s. 29 (2)); for certain dental and optical appliances and for the repair or replacement of dental and optical appliances in certain circumstances as well as for such dental treatment as may by regulation be prescribed, (s. 44). As to all these matters reference should be made to the, sections quoted for further information. As to recovery of charges see s. 71.

For meaning of "illness," see s. 79.

Central Health Services Council and Standing Advisory Committees.

2.—(1) There shall be constituted in accordance with the First Schedule to this Act a council, to be called the Central Health Services Council and hereafter in this Act referred to as "the Central Council", and it shall be the duty of the Central Council to advise the Minister upon such general matters relating to the services provided under this Act, or any services provided by local health authorities in their capacity as such authorities, as the Council think fit and upon any questions referred to them by him relating to those services.

For First Schedule as to constitution of Central Council, see p. 128.

As to finance, see s. 54 (4).

(2) The Minister may, after consultation with the Central Council, by order vary the constitution of that Council.

As to formalities in connection with making an order varying constitution of Central Council, see s. 75 (2), and as to revocation or variation by subsequent order, s. 75 (4).

(3) The Minister may, after consultation with the Central Council, by order constitute standing advisory committees

for the purpose of advising him and the Central Council on such of the services aforesaid as may be specified in the order, and any committee constituted under this sub-section shall consist partly of members of the Central Council appointed by the Minister after consultation with that Council as being persons of experience in those services and partly of persons, whether members of the Central Council or not, appointed by the Minister after consultation with such representative organisations as the Minister may recognise for the purpose.

An order constituting a standing advisory committee does not have to be laid before Parliament. It can be varied or revoked by the Minister at any time, s. 75 (4). As regards consultation with representative organisations, it is to be observed that the Minister's recognition of an organisation is its sole claim to be consulted. Persons appointed after such consultations are in no sense representative.

As to regulation of proceedings of standing advisory committees and appointment of officers, see s. 2 (6) below and supplementary provisions in First Schedule on p. 128.

As to finance, see s. 54 (4).

(4) It shall be the duty of a standing advisory committee constituted under this section to advise the Minister and the Central Council upon such matters relating to the services with which the committee are concerned as they think fit and upon any questions referred to them by the Minister or Central Council relating to those services, and, if the committee advise the Minister upon any matter, they shall inform the Central Council, who may express their views thereon to the Minister.

(5) The Central Council shall make an annual report to the Minister on their proceedings and on the proceedings of any standing advisory committee constituted under this section, and the Minister shall lay that report before Parliament with such comments (if any) as he thinks fit :

Provided that, if the Minister, after consultation with the Central Council, is satisfied that it would be contrary to the public interest to lay any such report, or a part of any such report, before Parliament, he may refrain from laying that report or part.

(6) The supplementary provisions contained in the First Schedule to this Act shall have effect in relation to the Central

Council and any standing advisory committee constituted under this section.

See p. 128.

PART II

HOSPITAL AND SPECIALIST SERVICES

Provision of Services by Minister

Provision of Hospital and Specialist Services

3.—(1) As from the appointed day, it shall be the duty of the Minister to provide throughout England and Wales, to such extent as he considers necessary to meet all reasonable requirements, accommodation and services of the following descriptions, that is to say :—

(*a*) hospital accommodation ;

(*b*) medical, nursing and other services required at or for the purposes of hospitals ;

(*c*) the services of specialists, whether at a hospital, a health centre provided under Part III of this Act or a clinic or, if necessary on medical grounds, at the home of the patient ;

and any accommodation and services provided under this section are in this Act referred to as " hospital and specialist services ".

The appointed day for provision of hospital and specialist services, as well as for transfer of hospitals to the Minister under s. 6, has been fixed by Order in Council as 5th July, 1948.[1]

It is important to appreciate that *hospital* and *hospital accommodation* throughout the Act have the very wide meaning given in s. 79. By virtue of the definition referred to *hospital* includes clinics and dispensaries maintained in connection with any institution for the reception and treatment of persons suffering from illness, etc. But " clinic " cannot apparently be used in that restricted sense in s. 3 (1) (*c*), since it is used in addition to *hospital* in the same sentence, and therefore presumably has reference to the services of specialists at maternity and child welfare clinics and the like maintained by local health authorities. The importance of s. 3 (1) (*c*) is that the services of specialists, even at a patient's home, if necessary on medical grounds, fall under the head of

[1] National Health Service Act (Appointed Day) Order, 1948 (S. I. 1948, No. 112).

" hospital and specialist services " and are so provided free to those availing themselves of the service except private patients in hospital under s. 5.

Nowhere in the Act is the expression " specialist " defined, but since by s. 12 (1) and saving the rights and duties of teaching hospitals under s. 12 (3), it is the duty of a regional hospital board to administer hospital and specialist services in its area, it seems necessary to conclude that a specialist must be a medical practitioner holding a clinical or other specialist appointment (*e.g.*, pathologist) on the staff of a regional hospital board or the board of governors of a teaching hospital, not being either a general practitioner or a member of the junior medical or surgical staff. Regulations as to qualifications may be made under s. 14 (2) and s. 66.

By Part II of the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948,[1] and subject to any directions given by the Minister, to the delegation of certain functions to hospital management committees and to reservation of functions to boards of governors of teaching hospitals in their area, regional hospital boards are to be responsible for the provision of and are to administer hospital and specialist services in their area under this section. As will be seen from Part III of the Regulations, the day to day management is to be largely delegated to hospital management committees. The functions of boards of governors of teaching hospitals are given in Part IV of the Regulations.

It must be observed that the Minister's power to provide hospital and specialist services otherwise than through the hospital authorities mentioned and outside the ambit of the Regulations is expressly preserved in reg. 8 (*a*) so far as such services relate to the provisions of equipment, furniture and other movable property ; or (*b*) where in his opinion special circumstances make it desirable to do so.

For meaning of " appointed day," " hospital accommodation," and " hospital," see s. 79.

(2) Regulations may provide for the making and recovery by the Minister of such charges as may be prescribed—

(*a*) in respect of the supply, as part of the hospital and specialist services, of any appliance which is, at the request of the person supplied, of a more expensive type than the prescribed type, or in respect of the replacement or repair of any such appliance ; or

(*b*) in respect of the replacement or repair of any appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement

[1] S. I. 1948, No. 60.

or repair is necessitated by lack of care on the part of the person supplied.

As to the making of regulations, see s. 75 (2)–(5). Prescribed throughout s. 3 (2) apparently means " prescribed by regulations made by the Minister under this Act," though it might be arguable that in paragraph (*a*) it means a type of appliance more expensive than that prescribed by the specialist for the particular patient. It is more probable, however, that even here it means more expensive than the type, if any, prescribed by regulation for that kind of case. Recovery of charges is dealt with in s. 71, and the right to sue on behalf of the Minister in appropriate cases is conferred on hospital authorities by s. 13.

By virtue of the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948,[1] reg. 4 (2), and subject to any relevant regulations and to any directions by the Minister, the functions of the Minister with respect to the making and recovery of charges for the supply, replacement or repair of appliances, is delegated to the regional hospital boards, except so far as teaching hospitals are concerned when the delegated authority vests in the board of governors (reg. 7 (2)). But by reg. 5 (1) regional boards are further obliged to delegate these delegated powers to the hospital management committees for the individual hospitals in their area, though they may apparently give directions as to the exercise of the functions so delegated.

For meaning of " Regulations " and " prescribed," see s. 79.

(3) Regulations may provide for the payment by the Minister, in such cases as may be prescribed, of travelling expenses (including the travelling expenses of a companion) incurred or to be incurred by persons for the purpose of availing themselves of hospital and specialist services.

Subject to any directions the Minister may give and to any regulations on the subject, the functions of the Minister with respect to payment of travelling expenses under this section are delegated in the case of teaching hospitals to the boards of governors,[2] and in the case of other hospitals to the regional hospital board,[3] which is, however, obliged further to delegate to the hospital management committee immediately concerned, but subject to any directions it may think fit to give.[4]

[1] S.I. 1948, No. 60.

[2] National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948 (S. I. 1948, No. 60), reg. 7 (3).

[3] *Ibid.*, reg. 4 (3).

[4] *Ibid.*, reg. 5 (2).

Accommodation Available On Part Payment

4. Where there is provided in any hospital, as part of the hospital and specialist services, accommodation in single rooms or small wards, the Minister may make any such accommodation, which is not for the time being needed by any patient on medical grounds, available for patients who undertake, or in respect of whom an undertaking is given, to pay for the accommodation such charges, designed to cover part of the cost thereof, as may be determined in the prescribed manner, and the Minister may recover those charges.

The provisions of this section dealing with part-paying patients must not be confused with those of s. 5 as regards private patients. A part-paying patient under s. 4 still receives all medical, surgical and ancillary services free of charge, his only payment being towards the cost of accommodation.

It does not appear that the Minister need himself make the accommodation available for part-paying patients. Seemingly, if he permits, there is ample authority under s. 12 for the regional hospital board to undertake the responsibility as administering on behalf of the Minister the hospital services provided in their area, or even for further delegation to the hospital management committee responsible for control and management of the hospital in accordance with s. 12 (2). Similarly, in the case of a teaching hospital the necessary authority might be given to the board of governors under s. 12 (3), though the expression "manage and control" being the same as in regard to hospital management committees, though in the reverse order suggest somewhat narrower powers on policy than those of a regional hospital board, which is to "administer." Sect. 13 enables such subordinate bodies to take action for recovery of charges. As to method of recovery, see s. 71. For definition of "hospital and specialist services," see s. 3 (1).

The above interpretation of the position has been confirmed by the provisions of the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948.[1] By reg. 7 (4) the Minister's functions under the section are delegated to the board of governors in the case of a teaching hospital and by reg. 4 (4) to regional hospital boards in the case of other hospitals, *subject in each case to the approval of the Minister*. But whilst the responsibility for making accommodation available on part-payment (otherwise than in the case of a teaching hospital) remains with the regional hospital board, that board is obliged, by reg. 5 (3), to delegate its functions with respect to admission of patients to and their discharge

[1] S. I. 1948, No. 60.

from such hospital accommodation and to recovery of charges, to the hospital management committee in immediate control of the hospital.

For meaning of "hospital," "patient," "medical" and "prescribed," see s. 79.

Accommodation for Private Patients

5.—(1) If the Minister, having regard to his duty to provide hospital and specialist services, is satisfied that it is reasonable so to do, he may set aside in any hospital providing such services special accommodation for patients who undertake, or in respect of whom an undertaking is given, to pay such charges as may be determined in the prescribed manner, being charges designed to cover the whole cost of the accommodation and services provided for the patient at the hospital, including an appropriate amount in respect of overhead expenses, and the Minister may recover those charges :

Provided that nothing in this section shall prevent accommodation so set aside from being made available for any patient who urgently needs that accommodation on medical grounds and for whom suitable accommodation is not otherwise available.

(2) The Minister may allow any medical practitioner serving, whether in an honorary or paid capacity, on the staff of a hospital providing hospital and specialist services to make arrangements for the treatment of his private patients either at that hospital or at any other such hospital, and may make available for that purpose the special accommodation aforesaid, and in that case the charges prescribed under the last foregoing subsection shall not include the cost of any services rendered by the medical practitioner, and regulations may prescribe the maximum charges to be made and recovered by any such medical practitioner in respect of the treatment of his private patients under this subsection.

Sub-s. (1) authorises the Minister to set aside hospital accommodation for patients undertaking or in respect of whom an undertaking is given to pay the whole cost of accommodation and services. Services in this connection includes cost of medical and surgical treatment by specialists as well as nursing and other ancillary services. That is made clear by the reference in s. 5 (2) to the exclusion from the charge of services rendered by a medical practitioner permitted to treat one of his private patients in

hospital. Hence there are to be two classes of paying patient—those under s. 5 (1) not admitted as private patients of a particular medical practitioner the charge to whom will include payment for all medical and surgical services and private patients under s. 5 (2) whose charge will exclude their own specialists' fee.

The setting aside of hospital accommodation for paying patients under s. 5 (1) is apparently and in the nature of things to be of greater permanence than the making available under s. 4 to part-paying patients of accommodation not for the time being needed by any patient on medical grounds, although, even under s. 5, the setting aside is not to prevent the accommodation being available for free patients in urgent need on medical grounds.

The expression " private patient " is nowhere defined in the Act, and doubtless bears its ordinary meaning, viz., a patient who is utilising the services of the particular medical practitioner under a private arrangement as to remuneration and not under the provisions of the Act. Although this sub-section uses the term *medical practitioner* and not specialist, it is fairly clear that ordinarily it means specialist and refers to senior members of the medical and surgical staff, as to which see note to s. 3 (1). But it might conceivably include even general practitioners if in any capacity recognised as members of the staff of a hospital and allow them to follow and co-operate in the treatment of their private patients in pay-bed hospital accommodation if—in practice—the senior hospital staff would consent. It could even allow junior members of the hospital medical and surgical staff, such as housemen, to have private patients, but is saved from any such apparent absurdity as the power given to the Minister is purely discretionary—" The Minister may allow . . . etc."

Although by virtue of s. 12, and subject to any regulations under s. 5 (2) prescribing maximum charges by medical practitioners in respect of private patients in hospitals, it might be argued that the discretion to permit treatment of private patients and the allocation of beds for the use of patients of senior members of the staff of any hospital could be settled either by the regional hospital board or, in the case of a teaching hospital, by the board of governors on behalf of the Minister, or even by a hospital management committee, it is the writer's view that the power to allocate accommodation is not intended so to be generally delegated, since the Minister, having regard to his duty to provide hospital and specialist services, must be satisfied that it is reasonable to set aside such accommodation. This requirement differentiates the case from mere use of accommodation for part-paying patients under s. 4.

Whilst the above note was in the press, the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948,[1] have been published under which (regs. 4 (4) and 7 (4)) the setting aside of accommodation under s. 5 is delegated to regional

[1] S.I. 1948, No. 60.

hospital boards and boards of governors of teaching hospitals respectively, *but in either case subject to the approval of the Minister.* The related functions as to the recovery of charges and the making of arrangements with medical practitioners for their private patients in hospital are by the same regulations similarly delegated, though in this case, without the approval of the Minister being required and with an obligation on regional hospital boards to delegate to hospital management committees (reg. 5 (4)). The delegation to the boards is subject to any directions the Minister may give, and the delegations to the hospital management committee is also subject to any directions of the regional hospital board.

The wording of regs. 4 (4) and 7 (4) is interesting in so far as the expression used is " setting aside special accommodation for private patients . . . and the making of arrangements with medical practitioners for the treatment of their private patients in hospital," whereas in s. 5 of the Act the expression " private patients " occurs only in sub-s. (2) relating to treatment in hospital of the private patients of a particular practitioner, whilst in sub-s. (1) the reference is to " patients who undertake . . . to pay such charges . . . designed to cover the whole cost . . ." and not to *private patients,* though the side note to the section is " Accommodation for private patients." Consequently, it remains doubtful at the time of writing whether the Minister regards " private patients " as equivalent to patients of the class mentioned in sub-s. (1) or whether he intends the expression to bear the same sense as that in which it is used in sub-s. (2), which would suggest that he does not intend to use his power under sub-s. (1) to provide accommodation for paying patients who do not desire to make a private contract with a medical practitioner under sub-s. (2). It would be difficult to see how the implementation of sub-s. (2) could be justified without full implementation of sub-s. (1) as a prerequisite. The only solution would be to argue that *private patient* in the regulations bears a meaning different from that in s. 5 (2) of the Act, a not very tenable position.

At the time of writing it is understood that no final decision had been reached as to the method of calculating the charge for specialist services to patients in pay-bed accommodation not falling within sub-s. (2) of the section, but assuming that sub-s. (1) is operated independently of that sub-section, it is likely to be on the estimated proportion of the total annual cost of such services to the hospital.

It may be added that there is nothing in the Act to give private patients falling within s. 5 (2) priority over those applying for pay-bed accommodation under sub-s. (1) and paying an inclusive fee for pay-bed accommodation and specialist services.

Attention must also be drawn to the fact that sub-s. (2) provides that anyone on the medical staff of any hospital within the service may be allowed entry to the pay-bed block even of another hospital. How far the Minister's discretion, whether exercised by himself or

by hospital authorities on his behalf, will be used to permit this is a matter of conjecture. The problem and its implications are practical rather than legal.

For definition of " hospital and specialist services," see s. 3 (1); for meaning of " medical practitioner," " hospital," " patient " and " prescribed," see s. 79.

Transfer of Hospitals to the Minister

Transfer of Hospitals to the Minister

6.—(1) Subject to the provisions of this Act, there shall, on the appointed day, be transferred to and vest in the Minister by virtue of this Act all interests in or attaching to premises forming part of a voluntary hospital or used for the purposes of a voluntary hospital, and in equipment, furniture or other movable property used in or in connection with such premises, being interests held immediately before the appointed day by the governing body of the hospital or by trustees solely for the purposes of that hospital, and all rights and liabilities to which any such governing body or trustees were entitled or subject immediately before the appointed day, being rights and liabilities acquired or incurred solely for the purposes of managing any such premises or property as aforesaid or otherwise carrying on the business of the hospital or any part thereof, but not including any endowment within the meaning of the next following section or any rights or liabilities transferred under that section.

The appointed day for this purpose has been fixed by Order in Council as 5th July, 1948.[1]

This sub-section, whilst providing for transfer to the Minister of *voluntary hospital* premises and equipment, furniture or other movable property used in connection with such premises expressly excludes endowments as defined in the very wide terms of s. 7 (10), such endowments being dealt with in accordance with s. 7.

Under s. 6 (5) regulations may be made for various apportionments, including apportionment and severance of premises partly used for purposes of any hospital and partly for other purposes (s. 6 (5) (*a*)) and for transfer to and vesting in the Minister of premises or interests held solely for the purposes of two or more voluntary hospitals (s. 6 (5) (*d*)), *e.g.*, a joint nurses' preliminary training school.

Reference should be made to s. 6 (3) as to exclusion of voluntary hospitals from transfer and to s. 6 (4) for freeing of transferred

[1] National Health Service Act (Appointed Day) Order, 1948 (S. I. 1948, No. 112).

property from existing trusts. As to property held on trust for hospital purposes, but not transferable to the Minister under s. 6 or s. 7, see s. 60.

Hospital in ss. 6–8 has the wider meaning given to it in s. 9 (1), which must be read in conjunction with s. 79.

Pay-patient blocks are included by virtue of s. 9 (2), even if run as a subsidiary company, if in connection with and for the profit of the hospital.

Premises intended for the purposes of a hospital; land upon which construction of hospital premises has commenced before the appointed day; war-damaged or destroyed hospital premises; and hospitals out of use for any reason are all transferred by virtue of s. 9 (3). As to rights under War Damage Act, see s. 9 (5).

Medical schools are not transferred under this section to the Boards of Governors of designated teaching hospitals, and if before the appointed day a medical school was subject to the same governing body as the related hospital it must be severed under s. 8.

Dealings with property between 21st March, 1946, and the appointed day designed to defeat the purpose of sub-s. (1) are invalidated by s. 9 (7).

As to making regulations for arbitration on disputes, amending documents and carrying on pending proceedings, see s. 9 (8).

For meaning of "appointed day," "voluntary," "hospital," "equipment," "property," "governing body," see s. 79.

(2) Subject to the provisions of this Act, there shall also, on the appointed day, be transferred to and vest in the Minister by virtue of this Act all hospitals vested in a local authority immediately before the appointed day, and all property and liabilities held by a local authority, or to which a local authority were subject, immediately before the appointed day, being property and liabilities held or incurred solely for the purposes of those hospitals or any of them or for the purpose of securing accommodation for persons in the area at any hospital not vested in the authority.

Under this sub-section are transferred to the Minister on the appointed day (5th July, 1948)[1] all *local authority hospitals* as well as all property and liabilities as mentioned. The term "property" is apt to include movables, such as stores, the test of transferability being whether the property was held solely for the purposes mentioned. The reference to "liabilities . . . incurred solely . . . for the purpose of securing accommodation for persons . . ." relieves local authorities of the burden of any such contracts they may

[1] National Health Service Act (Appointed Day) Order, 1948 (S. I. 1948, No. 112).

have entered into in the unlikely event of such contract being still capable of performance by the other party.

See as to exclusion from transfer, s. 6 (3) ; as to freeing of transferred property from trusts, s. 6 (4), this being specially important in respect of property falling within the terms of s. 7 (11) ; as to sundry apportionments, s. 6 (5).

As to local authority hospital property transferred under s. 6 (2) in the nature of endowments as defined in s. 7 (10), see s. 7 (11) ; as to other trust property not transferred, s. 60.

Hospital in this sub-section has the extended meaning given in s. 9 (1), and so includes any part of a workhouse used as a hospital, but see also paragraphs 7, 8 and 9 of the Sixth Schedule to the National Assistance Act, 1948, under which workhouses will be wholly transferred if the major part of the accommodation is used for hospital purposes, but not otherwise. The schedule also provides for continuance of existing hospital accommodation in workhouses not transferred and of accommodation for non-hospital purposes in transferred institutions.

Premises intended for the purposes of a hospital ; land upon which construction of hospital premises has commenced before the appointed day ; war-damaged or destroyed hospital premises ; and hospitals out of use for any reason are all transferred by virtue of s. 9 (3), but land or premises exceptionally and temporarily used by a local authority for a hospital immediately before the appointed day are not transferred (s. 9 (4)). As to rights under War Damage Act, see s. 9 (5).

Dealings with property between 21st March, 1946, and the appointed day designed to defeat the purpose of this section are invalidated by s. 7 (9).

Interpretation of " hospitals," " local authority," " appointed day " and " property," see s. 79.

(3) If it appears to the Minister that, in the case of any hospital to which the foregoing provisions of this section apply, the transfer of the hospital or of the interests referred to in subsection (1) of this section will not be required for the purpose of providing hospital and specialist services, he may, at any time before the appointed day, serve a notice to that effect on the governing body of the hospital or, as the case may be, on the local authority in whom the hospital is vested, and thereupon the foregoing provisions of this section shall cease to apply to that hospital :

Provided that if the governing body or local authority, within such period (not being less than twenty-eight days from the service of the notice) as may be specified in the notice,

serve a notice on the Minister stating that they wish the hospital or interests to be transferred to the Minister, the foregoing provisions of this section shall apply to the hospital.

The section gives the Minister power by notice to exclude any hospital from transfer subject to the right of the governing body or local authority concerned by counter-notice to require the Minister to accept transfer.

If any voluntary hospital is excluded by virtue of this sub-section, after the appointed day it can still be taken over compulsorily by virtue of s. 58, read together with s. 10 and the Second Schedule, but then only subject to full compensation. What the governing body of a voluntary hospital could lawfully do with such compensation would fall to be decided in accordance with the general law of charitable trusts. A voluntary hospital established on or after the appointed day could likewise thereafter be compulsorily acquired by the Minister subject to compensation.

If a local authority hospital were excluded from transfer by virtue of the sub-section, it would not follow that it could still be carried on as a hospital by the local authority concerned as by virtue of s. 50 and the Ninth Schedule, there referred to, those parts of the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, which authorise local authorities to carry on mental hospitals and institutions are—from the appointed day—repealed as, by s. 76 and the Tenth Schedule, are those provisions of the Public Health Acts authorising provision of other hospitals similarly repealed.

For meaning of " hospital," " appointed day," " governing body " and " local authority," see s. 79.

(4) All property transferred to the Minister under this section shall vest in him free of any trust existing immediately before the appointed day, and the Minister may use any such property for the purpose of any of his functions under this Act, but shall so far as practicable secure that the objects for which any such property was used immediately before the appointed day are not prejudiced by the provisions of this section.

As to similar provisions as to *endowments*, see s. 7 (7), and as to a closely related subject, the preservation of associations of denominational hospitals, see s. 61.

The explicit freeing of transferred property under s. 6 from existing trusts, coupled with the equally explicit proviso that the Minister shall so far as practicable secure that the objects for which such property was used immediately before the appointed day

are not prejudiced appears paradoxical, and it is difficult to see how the obligation in the latter part of the sub-section can be regarded as more than a moral one. Probably, however, the Minister's general obligation to provide hospital services for all areas will cover all existing trusts falling within s. 6 "as far as practicable." But the taking over of a hospital for a particular class of persons, *e.g.*, clergy or freemasons, might make the latter part of the section more significant.

For meaning of "appointed day" and "property," see s. 79.

(5) Regulations may provide—

(*a*) for the apportionment, as between the Minister and the other persons concerned, of interests in premises used partly for the purposes of any hospital to which this section applies and partly for other purposes and, in the case of a leasehold interest, for the severance thereof, and for vesting in the Minister and the other persons concerned the appropriate interests, and for the apportionment of rent payable in respect of any such severed lease ;

(*b*) for the apportionment, as between the Minister and the other persons concerned, of any other periodical sums payable in respect of any transferred property or liabilities ;

(*c*) for the apportionment, as between the Minister and the other persons concerned, of liabilities incurred partly for the purposes referred to in subsection (1) or subsection (2) of this section and partly for other purposes ;

(*d*) for the transfer to and vesting in the Minister of interests held solely for the purposes of two or more voluntary hospitals to which this section applies in premises used for the purposes of those hospitals, and of property and liabilities which would, if the interests were held and the premises used solely for the purposes of one such hospital, be transferred to the Minister under subsection (1) of this section or apportioned to him under the foregoing provisions of this subsection ; and

(*e*) for the determination by arbitration, in default of agreement, of any question arising as to any of the matters aforesaid.

For meaning of "regulations," "hospital," "voluntary" and "property," see s. 79.

(6) This section shall not apply to rights and liabilities arising under contracts for the rendering of personal services or to rights and liabilities arising under any enactment, scheme or contract providing for the payment of superannuation benefits, except superannuation benefits payable in respect of officers employed for the purposes of a voluntary hospital who have ceased to be so employed before the appointed day, but this subsection shall be without prejudice to the provisions of Part VI of this Act relating to the transfer and compensation of officers and the superannuation of officers.

Under this sub-section liabilities of voluntary hospitals in respect of superannuation of officers who have retired before the appointed day are transferred to the Minister.[1]

Superannuation of transferred officers falls to be dealt with under s. 67 and regulations made thereunder. Regulations as to the actual transfer of officers fall under s. 68, which also, in sub-s. 1 (*e*) and (*f*), provides for compensation of officers who suffer loss of employment or loss or diminution of emoluments attributable to the passing of the Act.

For meaning of "superannuation benefits," "officers," "voluntary hospital" and "appointed day," see s. 79.

Endowments of Voluntary Hospitals

7.—(1) Where any voluntary hospital to which the last foregoing section applies is, before the appointed day, designated by the Minister under this Part of this Act as a teaching hospital or is one of a group of hospitals so designated, all endowments of the hospital held immediately before the appointed day shall on that day, by virtue of this Act, be transferred to and vest in the Board of Governors constituted under the following provisions of this Part of this Act for the teaching hospital.

As to designation of teaching hospitals refer to s. 11 (8). Where a hospital is designated a teaching hospital after the appointed

[1] The burden of superannuation of local government hospital officers who retired before the appointed day is not transferred to the Minister under this Act, but lies where it fell under the Act under which it was granted. As to position where visiting committee, joint board or similar body responsible for pension is dissolved under this Act, see s. 77 (2).

day, financial and other adjustments may be made under s. 11 (9). Apparently if a local authority hospital were designated a teaching hospital before the appointed day it would receive as endowments only such assets as passed to it under s. 7 (11), but if designated a teaching hospital thereafter it might receive a more substantial endowment under s. 11 (9) (iii).

As to meaning of "endowments," see s. 7 (10).

Any dealings with property between 19th March, 1946, and the appointed day designed to defeat the purpose of this sub-section are invalidated by s. 9 (7).

Medical school endowments do not pass under this section, but are dealt with in accordance with s. 8.

The endowments falling to boards of governors of teaching hospitals under s. 7, being trusts for the relief of the sick, apparently constitute charitable trusts,[1] so as to bring the boards of governors as trustees of such funds within the jurisdiction of the Charity Commissioners, since the assets which are transferred as endowments within the meaning of s. 7 will also seemingly constitute endowments [2] in the sense in which the expression is used in the Charitable Trusts Acts, 1853 to 1925, not being voluntary gifts of the kind excluded from the jurisdiction of the Commissioners under those Acts.

For meaning of "voluntary hospital," "appointed day" and "teaching hospital," see s. 79.

(2) All such endowments shall vest in the Board free of any trust existing immediately before the appointed day and shall be held by the Board on trust for such purposes relating to hospital services or to the functions of the Board under this Part of this Act with respect to research as the Board think fit, and the Board may dispose of any property comprised in those endowments and hold the proceeds thereof on trust for any of the said purposes.

As to functions of board, see s. 12 (3), and as to research, s. 16.

The power of disposal of trust property and to hold proceeds on trust for the purposes referred to will presumably not relieve the board from their duty as trustees of duly investing in trustee securities any capital assets not immediately needed, though land could be bought for actual use for an authorised object, though not for investment, boards of governors, by paragraph (1) of Part IV of the Third Schedule to the Act, being constituted corporate bodies with power to hold land without licence in mortmain.

[1] In *Re Hillier, Dauncey* v. *Finch and A.-G.*, [1944] 1 A. E. R. 480.

[2] Further, as to the meaning of *endowment* in the Charitable Trusts Acts and the jurisdiction of the Charity Commissioners thereunder, *see* Tudor on "Charities," 5th Ed.

Presumably, however, if land were bought for use without the approval of the Minister, *e.g.*, for providing more extensive hospital facilities than those authorised to be provided out of public moneys, then the cost of maintenance of such additional services would also have to be borne out of endowments or out of gifts, or income of gifts under s. 59. By s. 7 (7) the duty is placed on boards to observe conditions of endowments and their objects as far as practicable. It may be noted that gifts accepted after the appointed day remain subject to the conditions imposed by the donor unless freed therefrom under the general rules relating to charitable trusts, see s. 59.

It may also be observed that s. 7 (2) expressly makes the capital of transferred "endowments" usable for any of the authorised purposes.

As to responsibility for breaches of trust, see notes to s. 72. As to boards of governors of teaching hospitals as trustees of other charitable gifts, see s. 59.

For meaning of "appointed day" and "hospital," see s. 79.

(3) Where any endowment which is to be vested in a Board of Governors under the foregoing provisions of this section is, immediately before the appointed day, subject to a charge in respect of a liability which would, but for this subsection, be transferred to the Minister under the last foregoing section, that liability shall, instead of being transferred to the Minister, be transferred to the Board on the appointed day.

The effect of this sub-section is to make any liability attaching to an endowment run with that endowment, *e.g.*, a mortgage debt on land. As to other rights and liabilities following endowments, see s. 7 (8).

For meaning of "appointed day," see s. 79.

(4) All endowments of a voluntary hospital to which the last foregoing section applies, other than a hospital to which the foregoing provisions of this section apply, being endowments held immediately before the appointed day, shall on that day be transferred to and vest in the Minister by virtue of this Act free of any trust existing immediately before that day; and the Minister shall establish a fund, to be called the Hospital Endowments Fund, to which he shall transfer all such endowments:

Provided that, where an endowment is given after the passing of this Act and before the appointed day, whether to the governing body of the hospital or to trustees, upon trusts which provide either—

(*a*) for the administration of the property as a capital fund separate from the general funds of the hospital ; or

(*b*) for the application of the property for some specific object distinct from the general purposes of the hospital and involving expenditure of a capital nature ;

the endowment, instead of being transferred to the Minister and the Hospital Endowments Fund as aforesaid, shall on the appointed day, by virtue of this Act, be transferred to and vest in the Hospital Management Committee constituted under the following provisions of this Part of this Act for the hospital or for the group of hospitals in which it is comprised, and shall vest in that Committee free of any trust existing immediately before the appointed day, and shall be held by the Committee on trust for such purposes relating to hospital services or to the functions of the Committee under this Part of this Act with respect to research as the Committee think fit, and the Committee may dispose of any property comprised in any such endowment and hold the proceeds thereof on trust for any of the said purposes.

The effect of this sub-section is to transfer to the Minister of Health for the Hospital Endowments Fund, on the appointed day, all endowments as defined in s. 7 (10)—otherwise than as expressly excepted by the proviso to this sub-section—possessed by any voluntary hospital other than a designated teaching hospital, as to which see note to s. 7 (1).

The excepted property comprises gifts made to any hospital between the passing of the Act (6th November, 1946) and the appointed day (5th July, 1948), but only if it was given upon trusts, as set out in s. 7 (4) (*a*) and (*b*), in which cases the property on the appointed day vests in the Hospital Management Committee for the hospital concerned free of trust but subject to the provisions of s. 7 (7). Excepted property thus remaining under control of a hospital management committee being a trust for relief of the sick [1] will constitute a charitable trust so as to bring it within the jurisdiction of the Charity Commissioners, not being a voluntary gift of the kind excluded from the jurisdiction of the Charity Commissioners under the Charitable Trusts Acts, 1853 to 1925.

The power of disposal of such property as is here referred to and to hold for any of the purposes mentioned in the proviso to

[1] Decided to be a charitable trust in *Re Hillier, Dauncey* v. *Finch and A.-G.*, [1944] 1 A. E. R. 480.

s. 7 (4), whilst it permits use of both capital and income at the discretion of the committee does not relieve the committee from their duties as trustees of duly investing in securities authorised in the Trustee Act, 1925, s. 1, any capital assets not immediately needed, though land could be bought for actual use for an authorised object though not for investment, hospital management committees, by paragraph (1) of Part IV of the Third Schedule to the Act, being constituted corporate bodies with power to hold land without licence in mortmain. Presumably, however, if land were bought for such use without the approval of the Minister, *e.g.*, for provision of services or pursuit of research, beyond that authorised to be maintained out of public funds, then the cost of maintaining such additional services would also have to be borne out of moneys available under the proviso to s. 7 (4) or under s. 59 of the Act.[1]

As to responsibility for breaches of trust, see note to s. 72 ; and as to hospital management committees as trustees of charitable gifts, see s. 59.

Further as to management and purpose of Hospital Endowments Fund, see s. 7 (5) (6) (8) (9).

Dealings with property between 19th March, 1946, and the appointed day designed to defeat the purpose of this sub-section are invalidated by s. 9 (7).

For meaning of " voluntary hospital," " hospital," " appointed day," " governing body " and " property," see s. 79.

(5) Regulations shall provide—

(*a*) for the control and management of the Hospital Endowments Fund by the Minister or any person authorised to act on his behalf, and for defraying out of the Fund such expenses incurred for the purpose of the control and management of the Fund as may be prescribed, and for conferring on the Minister or any such person any powers required for that purpose, including powers to sell or otherwise dispose of any assets of the Fund, and for carrying the proceeds into the Fund ;

(*b*) for enabling the Minister to apply, to such extent as may be prescribed, the assets of the Fund for discharging any liabilities transferred to him under the last foregoing section in connection with the transfer of such a voluntary hospital as is mentioned in the last foregoing subsection, or transferred to him under this section ;

[1] See also National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948, regs. 4 and 5.

(*c*) subject to any provision for the discharge of such liabilities, for apportioning the capital value of the Fund among the several Regional Hospital Boards and Hospital Management Committees constituted under the following provisions of this Part of this Act, in such shares as may be determined by the Minister in the prescribed manner, and for distributing the income of the Fund to those Boards and Committees proportionately to those shares ;

(*d*) for enabling the Minister, on the application of a Regional Hospital Board or Hospital Management Committee, to transfer to that Board or Committee for such purposes as may be approved by the Minister any part of the capital assets of the Fund not exceeding in value the said share of that Board or Committee, and for reducing that share accordingly.

This sub-section is mandatory, the Minister being under an obligation to make regulations for the purposes set out. It must be appreciated that under s. 7 (5) (*c*) there is no obligation on the Minister to distribute *pro rata* to the amounts contributed by the several hospitals. On the other hand, he is under no obligation entirely to disregard that factor.

It will be appreciated that hospital management committees (see s. 11 (6) and s. 12 (2)) are to have disposal of income of their quota of the fund independent of the regional hospital board (ss. 11 (1)–(5) and 12 (1)), and may apparently under paragraph (*d*) apply to the Minister for capital sum for approved purposes. By paragraph (*c*) it is contemplated that regional hospital boards are intended to receive a quota of the Hospital Endowments Fund over and above what may be specifically allocated to hospital management committees in their area.

For meaning of " Regulations," " prescribed " and " voluntary hospital," see s. 79.

(6) Subject to such general conditions as may be prescribed, any income received by a Regional Hospital Board or Hospital Management Committee under the last foregoing subsection may be used for such purposes relating to hospital services, or to the functions of the Board or Committee under this Part of this Act with respect to research, as the Board or Committee thinks fit.

As to regional hospital boards and committees, see ss. 11 and 12, and as to research, s. 16.

For meaning of " prescribed " and " hospital services," see s. 79.

(7) Every Board of Governors and Hospital Management Committee shall, in the case of any endowment transferred to them under this section, and the Minister shall, in the case of any endowment transferred to him and the Hospital Endowments Fund under this section, secure, so far as is reasonably practicable, that the objects of the endowment and the observance of any conditions attaching thereto, including in particular conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the provisions of this section.

The property to which this sub-section refers having been freed of existing trusts by virtue of s. 7 (2) or (4) and made available to the Minister, board or committee, as the case may be, for the purpose of their respective functions under this part of the Act, the words " reasonably practicable " as here used must be understood as meaning that due regard must first be paid to the overriding purpose of providing a hospital and specialist service as required by the Act, and only thereafter so far as is reasonably practicable are the former objects and conditions of an endowment to be carried out.

(8) All rights and liabilities acquired or incurred, whether by the governing body or by trustees, solely for the purposes of managing any endowment of a voluntary hospital to which the last foregoing section of this Act applies, being rights or liabilities to which they were entitled or subject immediately before the appointed day, shall—

(*a*) if the hospital has before that day been designated as a teaching hospital or is one of a group of hospitals so designated, be transferred to and vest in the Board of Governors of the teaching hospital on that day by virtue of this Act ;

(*b*) if the endowment is transferred to and vested in a Hospital Management Committee by virtue of this Act, be transferred to and vest in that Committee on that day by virtue of this Act ;

(*c*) in any other case be transferred to and vest in the Minister on that day by virtue of this Act.

This provides that all rights and liabilities connected therewith

shall be transferred together with the endowment on the appointed day. See also s. 7 (3).

For meaning of "governing body," "voluntary hospital," "teaching hospital" and "hospitals," see s. 79.

(9) Regulations may provide—

(*a*) for the apportionment of any property held by the governing body of a voluntary hospital to which this section applies partly for the purposes of that hospital and partly for other purposes, being property which would, if it were held solely for the purposes of the hospital, constitute an endowment of that hospital, and for vesting the appropriate shares in the Minister or (in the case of a teaching hospital) the Board of Governors of that hospital, or (in the case of an endowment which would be transferred to a Hospital Management Committee) that Committee, and the other persons concerned ;

(*b*) in connection with any such apportionment, for the severance of leases and the apportionment of rent payable in respect thereof and for the apportionment of any rights and liabilities acquired or incurred for the purposes of managing the property and of any liabilities charged thereon ;

(*c*) in lieu of such apportionment, for the disposal of any such property and for the apportionment of the proceeds ;

(*d*) for the apportionment of any other periodical sums payable in respect of property transferred under this section ;

(*e*) for the transfer to the Hospital Endowments Fund of any property or sums apportioned to the Minister under the regulations ;

(*f*) for the determination by arbitration, in default of agreement, of any question arising with respect to the matters aforesaid.

This sub-section permits regulations to be made for securing any apportionment of interests necessary or for other arrangements in lieu of apportionment. It would appear necessary for regulations to be made for each particular case which arises.

For meaning of "Regulations," "property" and "hospital," see s. 79.

(10) In this section the expression "endowment," in relation to a voluntary hospital, means property held by the governing body of the hospital or by trustees solely for the purposes of that hospital, being property of the following descriptions—

(*a*) interests in or attaching to land other than the premises referred to in subsection (1) or subsection (5) of the last foregoing section, and in equipment, furniture or other moveable property used on or in connection with such land ;

(*b*) shares, stocks, bonds, debentures and other securities, and any other personal property held by way of an investment ;

(*c*) money, including any credit in a banking account ;

(*d*) rights under any bill of exchange, promissory note or gratuitous covenant for the payment of money :

Provided that an equitable interest held for the purposes of a voluntary hospital in trust property in which there are other equitable interests shall not be deemed to be an endowment of that hospital.

The definition of endowments to be transferred in accordance with s. 7 (1), (4) or (11) is precise and detailed, whereas the definition of property transferable under s. 6 is broad and general, taking in everything not expressly passing under s. 7 and not being an equitable interest of the kind mentioned in the proviso to the subsection, as to which see further s. 60.

In s. 7 (10) (*d*) the expression "bill of exchange" includes "cheque," [1] but is not apt to include conditional payable orders often (*e.g.*, where a receipt must be signed as a condition of encashment) in practice regarded as cheques, nor money orders, nor postal orders. It is therefore difficult to see how these can be brought under any one of the four heads (*a*)–(*d*) of property transferable as endowments. Hence, strictly it would appear that such assets, if not paid in, collected and irrevocably credited in a banking account on the appointed day would fall under s. 6 (1) and not s. 7. The benefit of seven-year covenants is transferred as an endowment being a gratuitous promise, though it might in appropriate circumstances go to the hospital management committee of the hospital it was intended for, this by virtue of the proviso to s. 7 (4).

As to war damage claims, see s. 9 (5) and proviso thereto.

For meaning of "voluntary hospital," "property," "governing body," "hospital," "property" and "equipment," see s. 79.

[1] Bills of Exchange Act, 1882, s. 73.

(11) Where the Minister is satisfied that any property transferred to him under subsection (2) of the last foregoing section, being property held for the purposes of a hospital vested in a local authority immediately before the appointed day, would, if the hospital had been a voluntary hospital immediately before that day, have been an endowment of that hospital within the meaning of this section, he shall—

(*a*) if the hospital has been designated as a teaching hospital or is one of a group of hospitals so designated, transfer the property to the Board of Governors constituted under the following provisions of this Part of this Act for the teaching hospital ;

(*b*) if the endowment would have been transferred to the Hospital Management Committee, transfer the property to that Committee ;

(*c*) in any other case transfer the property to the Hospital Endowments Fund ;

and the foregoing provisions of this section shall apply to the property in like manner as they apply to endowments of voluntary hospitals.

The effect of this sub-section is to make the same conditions as to transfer apply to local authority hospital endowments as to voluntary hospital endowments.

For meaning of "property," "hospital," "local authority," "appointed day," "voluntary hospital," and "teaching hospital," see s. 79.

Exception for Medical and Dental Schools

8.—(1) Where a medical or dental school is associated with any hospital to which section six of this Act applies, nothing in that section or the last foregoing section shall be taken as affecting any property or liabilities held or incurred solely for the purposes of that school, and those purposes shall not be deemed to be purposes of the hospital.

(2) All property and liabilities held or incurred solely for the purposes of any such school, not being property already vested in the bodies hereafter in this section mentioned or liabilities to which those bodies are already subject, shall, on the appointed day, be transferred by virtue of this Act—

(*a*) in the case of a general medical school of the univer-

sity of London or any school in the faculty of medicine of that university which is recognised for dentistry only, to the governing body of that school ;

(*b*) in the case of Welsh National School of Medicine, to the governing body of that school ;

(*c*) in the case of a medical or dental school of a university other than the university of London or the university of Wales, to the governing body of the university of which the school is a part ;

and shall vest in the said governing body by virtue of this Act.

(3) If any institute for the post-graduate teaching of medicine or dentistry, being an institute associated with any hospital to which section six of this Act applies, is recognised by the Minister for the purposes of this section before the appointed day, subsection (1) of this section shall apply thereto in like manner as it applies to a medical or dental school so associated, and all property and liabilities held or incurred solely for the purposes of any such institute, not being property already vested in the governing body of the institute or liabilities to which that body is already subject, shall, on the appointed day, be transferred to and vest in the governing body of the institute by virtue of this Act.

Should a medical school be severed from a hospital in accordance with this section, any necessary apportionment of property can be effective under s. 7 (9). See also s. 15 as to incorporation of general medical schools of the University of London or schools of dentistry of that University.

For meaning of " medical," " hospital " and " property," see s. 79.

Supplementary Provisions Relating to Transfer of Hospital Property and Liabilities

9.—(1) For the purposes of the foregoing provisions of this Part of this Act relating to the transfer of property and liabilities, the expression " hospital " includes, in addition to the premises specified in the definition of the said expression contained in section seventy-nine of this Act, any clinic, dispensary or out-patient department not maintained in connection with such premises as aforesaid at which treatment by

or under the direction of medical or dental practitioners is provided, not being—

(*a*) a clinic or out-patient department maintained by a local education authority or maintained by any other local authority for the care of expectant and nursing mothers and young children ; or

(*b*) a clinic, out-patient department or dispensary where medical advice or treatment is ordinarily given by general medical practitioners and not by specialists ;

and also includes any part of a workhouse within the meaning of the Poor Law Act, 1930,[1] which would, if it were a separate institution, be a hospital as defined by the said section seventy-nine, but save as aforesaid does not include any premises forming part of or ancillary to any institution or undertaking of which the main purpose is not therapeutic.

Hospital, as defined in s. 79, is essentially a place where in-patients are received, although expressly including out-patient departments thereof, whether on the same premises or otherwise. The expression "clinic, dispensary or out-patient department" here used to broaden that definition seemingly covers all places for the treatment of the sick which would be hospitals within the meaning of s. 79 if they took in-patients. It is to be noted, however, that whilst all hospitals, even small general practitioner staffed cottage hospitals, are subject to transfer under s. 6, a general practitioner staffed clinic, dispensary or out-patient department not part of a hospital within the meaning of s. 79 is not transferable by virtue of this section.

For meaning of "property," "hospital," see s. 79.

(2) Where in connection with a voluntary hospital any premises are used for providing accommodation for paying patients and any profits thereby earned are made available for the benefit of the hospital, the premises shall be deemed for the purposes of this Part of this Act to form part of the hospital.

It would appear that if the pay-patient premises are owned by a separately incorporated company, if the company is purely a subsidiary of the hospital and is run in connection with the hospital, then by virtue of this sub-section it will be transferred to the Minister under s. 6 and not be transferred as an endowment under s. 7.

[1] 20 & 21 Geo. 5, c. 17.

For meaning of " voluntary hospital " and " hospital," see s. 79.

(3) Where—

(*a*) any premises are intended to be used for the purposes of a hospital to which section six of this Act applies but have not been so used before the appointed day, and work has been done before that day for the purpose of adapting the premises for such use ;

(*b*) it is intended to construct on any land new buildings or works which will on completion be used for the purposes of such a hospital as aforesaid, and the work of constructing the buildings or works has commenced before the appointed day ;

(*c*) any premises used for the purposes of such a hospital as aforesaid have been destroyed and have not been restored before the appointed day ; or

(*d*) any premises normally used for the purposes of such a hospital as aforesaid are, owing to damage or any other cause, not so used immediately before the appointed day ;

any interests in those premises or in that land or, in the case of destroyed premises, the site thereof held immediately before the appointed day by the governing body of the hospital or trustees or, as the case may be, the local authority in whom the hospital is vested, being interests held solely for the purposes of the hospital, shall be deemed for the purposes of this Part of this Act to be interests in premises forming part of the hospital.

(4) Where any premises or land normally used for other purposes are or is temporarily used immediately before the appointed day by a local authority for the purposes of a hospital, the premises or land shall not be deemed for the purposes of this Part of this Act to be a hospital or, as the case may be, to form part of a hospital.

(5) Any right under the War Damage Act, 1943,[1] to receive a payment in respect of war damage within the meaning of that Act, held immediately before the appointed day by the governing body of a voluntary hospital or by trustees solely for the purposes of such a hospital, and any such right

[1] 6 & 7 Geo. 6, c. 21.

other than a right to receive a payment of cost of works or a temporary works payment within the meaning of that Act, held immediately before the appointed day by a local authority in whom a hospital is vested, in respect of war damage to property which before the occurrence of the damage was held for the purposes of that hospital, shall be deemed for the purposes of this Part of this Act to be a right acquired solely for the purposes of carrying on the business of the voluntary hospital or, as the case may be, a right held by the local authority solely for the purposes of the hospital vested in them :

Provided that, if the property to which the right relates was before the occurrence of the damage an endowment (within the meaning of section seven of this Act) of a voluntary hospital, the right shall for the purposes of this Part of this Act be deemed to be such an endowment.

(6) For the purposes of section fourteen of the War Damage Act, 1943 (which relates to the compulsory acquisition of partially damaged land) the transfer of any land under the foregoing provisions of this Part of this Act shall not be deemed to be the compulsory acquisition thereof.

(7) Where any property was, at any time between the twenty-first day of March, nineteen hundred and forty-six, and the appointed day, held or used by such persons and for such purposes as would result, but for anything done after the said date, in the transfer of the property to the Minister or to the Board of Governors of a teaching hospital under the foregoing provisions of this Part of this Act, and that property ceases to be so held or used before the appointed day, it shall nevertheless be treated for the purposes of those provisions as if it had continued to be so held or used until the appointed day, unless it is proved by a person whose interest in that property would be transferred to the Minister or Board under those provisions, that the fact that it was not so held or used immediately before the appointed day was due to something done or occurring in the ordinary course of business, and was in no way connected with the said provisions.

The effect of this sub-section is to render invalid any dealings with property otherwise than in the ordinary course of business between 19th March, 1946, and the appointed day which would

otherwise defeat the provision of ss. 6 and 7 as to transfer to the Minister or to the Board of Governors of a teaching hospital. The onus of proving that such dealings were in the ordinary course of business is placed on the person whose interests would be transferred to the Minister or Board of Governors under those provisions. This places the onus on the transferee of such property of defending his title.

Apparently this sub-section does not apply to property otherwise directly transferable to a Hospital Management Committee under the proviso to s. 7 (4).

For meaning of " property," " teaching hospital " and " appointed day," see s. 79.

(8) Regulations may make such provision supplementary to or consequential on the foregoing provisions of this Part of this Act relating to the transfer of property and liabilities as appears to the Minister to be necessary or expedient, and in particular, but without prejudice to the generality of this sub-section, regulations may provide—

(*a*) for the determination by arbitration, in default of agreement, of any question arising as to whether any property or liability will be or has been transferred under the said provisions or as to the person to whom it will be or has been transferred ;

(*b*) for the amendment of documents relating to any transferred property or liabilities to such extent as appears to the Minister to be necessary for the purposes of such transfer ; and

(*c*) for enabling pending proceedings relating to any transferred property or liabilities to be carried on.

This sub-section confers on the Minister very wide powers of removing difficulties in the way of transfer of property under ss. 6 and 7 by regulations which may be supplementary to or consequential upon the provisions of ss. 3–9 inclusive, and in particular for the purposes in paragraphs (*a*), (*b*) and (*c*) of the sub-section.

It is submitted that in spite of the very wide terms of this sub-section, the Minister is restricted to the making of such regulations as are fairly incidental to the purposes of this part of the Act, and it is submitted that he could not, for example, go as far as making s. 9 (7) apply to property transferable to a Hospital Management Committee by virtue of s. 7 (4), since Parliament has not done so.

For meaning of " regulations," " property," see s. 79.

Power to Acquire Hospital Equipment

10. Where, in the exercise of powers to purchase land conferred on him by Part VI of this Act, the Minister acquires any hospital (as defined by the last foregoing section), whether or not carried on for profit, he may also acquire, either by agreement or compulsorily in accordance with the provisions of the Second Schedule to this Act, any equipment, furniture or other moveable property used in or in connection with the hospital premises, and the provisions of the said Schedule relating to compensation and certain other matters shall apply.

The effect of this section, read in conjunction with s. 58, is to permit the Minister at any time on paying compensation to be determined in accordance with the provisions of the Act (as to which see s. 58 and Second Schedule) to acquire a hospital within the meaning of s. 79 run for profit, commonly called a nursing home. He may after the appointed day similarly acquire any voluntary hospital previously excluded from transfer by virtue of s. 6 (3). The same applies to any new voluntary hospital established on or after the appointed day.

Since if voluntary hospitals were transferred under ss. 10 and 58 compensation would be payable, it is desirable in the case of any such hospital founded after the appointed day that its constitution should provide expressly for the disposal of the compensation in that eventuality or for carrying on the charity in a different form.

For meaning of " hospital," see s. 79.

Local Administration of Hospital and Specialist Services

Regional Hospital Boards, Hospital Management Committees, and Boards of Governors of Teaching Hospitals

11.—(1) The Minister shall by order constitute, in accordance with Part I of the Third Schedule to this Act, boards, to be called Regional Hospital Boards, for such areas as he may by order determine, for the purpose of exercising functions with respect to the administration of hospital and specialist services in those areas; and the Minister shall secure, so far as practicable, that each area is such that the provision of the said services in the area can conveniently be associated with a university having a school of medicine.

As to making order under this sub-section, see s. 75.

Orders determining the regions and nominating the first members of the Regional Boards have been made, viz., the National Health

Service (Determination of Regional Hospital Areas) Order, 1946, and the National Health Service (Constitution of Regional Hospital Boards) Order, 1947. Such orders may be varied or revoked in accordance with s. 75 (4). Further orders for filling vacancies will be made as necessary.

It is to be appreciated that whilst the Minister, both by sub-s. (2) of this section, and by the Third Schedule, was obliged to consult certain organisations before making original appointments to Regional Hospital Boards he was not obliged to appoint nominees of those organisations. It appears by the Third Schedule that, except as regards voluntary hospitals, the Minister's duty of consultation on appointments remains as regards vacancies. He is not, however, obliged to maintain the original or any particular proportion, but must also consult the Board itself as to vacancies.

Further as to functions of regional hospital boards, see s. 12 (1) and National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948.[1]

See also sub-ss. (2) and (10) and Part IV of the Third Schedule.

For definition of " hospital area specialist services," see s. 3 (1).

(2) The order or orders made under the foregoing subsection determining the areas for which the Regional Hospital Boards are to be constituted shall be separate from the order or orders constituting those Boards, and before making any order determining such an area, the Minister shall consult with such bodies and organisations as appear to him to be concerned.

(3) Every Regional Hospital Board shall, within such period as the Minister may by direction specify, submit to the Minister a scheme for the appointment by them of committees, to be called Hospital Management Committees, for the purpose of exercising functions with respect to the management and control of individual hospitals or groups of hospitals, other than teaching hospitals, providing hospital and specialist services in the area of the Board.

Further as to functions of Hospital Management Committees, see s. 12 (2). " Hospital and specialist services " are defined in s. 3 (1).

For default powers of Minister, see ss. 11 (7) and 57.

For meaning of " hospitals " and " teaching hospitals," see s. 79.

(4) The Minister may approve, with or without modifications, which may include additions or exceptions, any scheme

[1] S. I. 1948, No. 60.

submitted to him by a Regional Hospital Board under the last foregoing subsection, and it shall be the duty of the Board to give effect to the scheme as approved by the Minister.

(5) A Regional Hospital Board may at any time, and if directed by the Minister shall within such period as may be specified in the direction, submit a new scheme providing for the modification of the scheme in force under this section, and the last foregoing subsection shall apply to any such new scheme.

(6) A Hospital Management Committee shall be constituted in accordance with Part II of the Third Schedule to this Act.

(7) If a Regional Hospital Board fail to submit any scheme which they are required to submit within a period specified by direction of the Minister, the Minister may himself prepare a scheme and it shall have effect as if it had been submitted and approved under the foregoing provisions of this section.

(8) The Minister may, after consultation with the university concerned, by order designate as a teaching hospital any hospital or group of hospitals which appears to him to provide for any university facilities for undergraduate or post-graduate clinical teaching, and the Minister shall, in the case of any hospital or group so designated, by order constitute, in accordance with Part III of the Third Schedule to this Act, a Board of Governors for the purpose of exercising functions with respect to the administration of that hospital or group ; and any group of hospitals so designated shall, as from the appointed day or the date of the designation (whichever last occurs), be deemed for the purposes of this Act to be a single hospital.

The Minister, although bound to consult the university concerned, exercises his unfettered discretion in designating or not designating a teaching hospital, the key words being " may . . . designate " and " which *appears to him* to provide . . . "

For meaning of " teaching hospital " and " hospitals," see s. 79.

(9) Where after the appointed day—

(*a*) any of the areas for which Regional Hospital Boards are constituted are varied, whether or not such variation involves the constitution of a new Board or the termination of the functions of an existing Board ;

(*b*) a new scheme is made under subsection (5) of this section involving the appointment of a new Hospital Management Committee or the termination of the functions of an existing Committee or any variation in the grouping of hospitals managed by such Committees ; or

(*c*) a new teaching hospital is designated or the designation of a teaching hospital is revoked, or any hospital is included in or excluded from a group of hospitals so designated ;

the Minister may by order make provision for any supplementary and incidental matters for which it appears to him to be necessary or expedient to provide, and in particular—

(i) for the transfer and compensation of officers, and the transfer of property and liabilities ;

(ii) for making a new apportionment or an adjustment, in accordance with regulations made under subsection (5) of section seven of this Act, of the shares of Regional Hospital Boards and Hospital Management Committees in the capital value of the Hospital Endowments Fund ; and

(iii) in a case to which paragraph (*c*) of this subsection applies, for requiring capital assets to be transferred from the said Fund to the Board of Governors of a teaching hospital, or, as the case may be, from any such Board to the said Fund.

(10) The supplementary provisions contained in Part IV of the Third Schedule to this Act shall have effect in relation to the various bodies constituted under this section.

The supplementary provisions of Part IV of the Third Schedule here referred to are very important as, *inter alia*, making Regional Hospital Boards, Boards of Governors of teaching hospitals and Hospital Management Committees bodies corporate with perpetual succession and a common seal and power to hold land without licence in mortmain. See also notes on that schedule.

Functions of Boards and Management Committees

12.—(1) Subject to the exercise of functions by Hospital Management Committees in accordance with the next following subsection, it shall be the duty of a Regional Hospital

Board, subject to and in accordance with regulations and such directions as may be given by the Minister, generally to administer on behalf of the Minister the hospital and specialist services provided in their area, and in particular—

(*a*) to appoint officers required to be employed at or for the purposes of any hospital providing such services, other than a teaching hospital ;

(*b*) to maintain any premises forming part of or used in connection with any such hospital ;

(*c*) to acquire on behalf of the Minister and to maintain equipment, furniture and other moveable property required for the purposes of any such hospital.

As will be seen by reference to s. 12 (2), it is intended that a considerable part of the functions of a Regional Hospital Board, so far as particular hospitals are concerned, is in fact to be delegated to the appropriate Hospital Management Committee. This may be so even as regards appointment and dismissal of officers, subject only to such regulations and directions as are referred to in this sub-section and to the provisions of ss. 14 and 66, and notwithstanding that by s. 14 (1) all officers (which includes servants) will be officers of the Regional Board. Such delegation has in fact been effected by the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948,[1] to the extent there specified.

As to meaning of hospital and specialist services, see s. 3 (1). The ownership of a hospital, its furniture and equipment, by virtue of s. 6 vests in the Minister, but the duty of maintenance on his behalf is here placed on the Board. The power to hold land conferred in Part IV of the Third Schedule does not imply that a Regional Board is to own hospital premises nor to acquire by purchase additional hospital premises ; seemingly the power to hold land is intended to refer only to gifts. Perhaps, however, additional premises could be obtained by purchase out of endowment funds with the consent of the Minister. It would hardly be conceivable that such purchase would be permissible without his consent, as it would increase the Minister's financial responsibility for maintenance, the Regional Board or Board of Governors being entitled only to have defrayed out of moneys provided by Parliament expenditure approved by the Minister in the prescribed manner (s. 54 (1)).

It would also seem that a Regional Hospital Board, a Hospital Management Committee or the Board of Governors of a teaching hospital could hold land by way of gift (otherwise than by way of

[1] S. I. 1948, No. 60, reg. 5 (5).

investment—which is clearly allowable if within the terms of the gift) for any purposes relating to the hospital services, even without the Minister's consent, always provided the cost of upkeep did not fall on public funds (s. 59).

The functions delegated to regional hospital boards—subject to any directions of the Minister—are set out in the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948,[1] Part II, whilst in Part III will be found an outline of the functions to be delegated by the regional boards to hospital management committees, in both cases subject to certain limitations. It is particularly to be noted that there is a proviso to reg. 4 that "(*a*) Nothing in these regulations shall authorise a regional hospital board to acquire land for the purposes of providing hospital and specialist services." This proviso, it will be observed, does not constitute a direct prohibition, and apparently leaves the question of authority to acquire land to be settled on the basis of the terms of the Act and the Schedules thereto. But the overall limit on any regional board of £10,000 on building and civil engineering works [2] and on any hospital management committee of £1,000,[3] which must apparently be included in the £10,000 for the regional board emphasises the Minister's intention to keep strict control of building, this quite apart from the permission in lieu of building licence required under reg. 8 so long as Defence (General) Regulations, 1939, reg. 56A, paragraph (2), remains operative. It is not absolutely clear from the Regulations whether the £10,000 and £1,000 limits respectively apply to single building or civil engineering works or to all such works, although at different hospitals or even on different parts of the same hospital undertaken by the same authority at substantially the same time. The present writer leans towards the former interpretation.

Whilst on the subject of constructional works, attention may be drawn to reg. 4 (4) (*c*) as to standards to be maintained in mental hospitals and in institutions for mental defectives.

As to finance, see s. 54.

For meaning of "officers," "teaching hospital," "hospital," "property" and "equipment," see s. 79.

(2) It shall be the duty of the Hospital Management Committee of any hospital or group of hospitals, subject to and in accordance with regulations and such directions as may be given by the Minister or the Regional Hospital Board, to control and manage that hospital or group of hospitals on behalf of the Board, and for that purpose to exercise on behalf of the Board such of the functions of the Board relating to that hospital or group of hospitals as may be prescribed.

[1] S. I. 1948, No. 60.
[2] *Ibid.*, reg. 4 (4) (*b*).
[3] *Ibid.*, reg. 5 (6).

The functions to be exercised by a Hospital Management Committee are those delegated by the Regional Board in accordance with any relevant directions or regulations. See further note to s. 12 (1). What is said there about land holding applies equally to Hospital Management Committee. As to finance, see s. 54.

The functions generally to be delegated to hospital management committees and the limitations thereto are set out in the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948,[1] Part III. It must be appreciated that as these functions are being delegated from the regional boards they can in no case be more extensive than those of the regional boards from which they are delegated, as to which see Part II of the Regulations. The functions delegated are subject to any directions by the regional hospital board or by the Minister (reg. 5).

For meaning of "hospital," see s. 79.

(3) It shall be the duty of the Board of Governors of every teaching hospital, as from the appointed day, in accordance with regulations and such directions as may be given by the Minister, generally to manage and control the hospital on behalf of the Minister, and in particular—

(*a*) to provide for the university with which the hospital is associated such facilities as appear to the Minister to be required for clinical teaching and research ;

(*b*) to appoint officers required to be employed at or for the purposes of the hospital ;

(*c*) to maintain any premises forming part of or used in connection with the hospital ;

(*d*) to acquire on behalf of the Minister and to maintain equipment, furniture and other moveable property required for the purposes of the hospital.

The powers and functions of Boards of Governors of teaching hospitals are generally the same as of regional boards, except (*a*) that there is no further delegation to Hospital Management Committees ; (*b*) that there is a duty to provide such facilities for clinical teaching and research as appear to the Minister to be required. But note that by virtue of s. 16 (2), Regional Boards and Management Committees as well as teaching hospital Boards of Governors may all conduct research, which is to be distinguished from the responsibility of teaching hospitals to provide facilities for the universities.

The functions of boards of governors of teaching hospitals (subject to any directions by the Minister) are set out in greater

[1] S. I, 1948, No. 60.

detail in Part IV of the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948,[1] and are substantially the same as those of regional hospital boards under Part II, except that there is no delegation to hospital management committees. Readers are referred to proviso to reg. 7 and to the notes to s. 14 (1) as to purchase of land for hospital purposes.

As to finance, see s. 54.

For meaning of "hospital," "officers," "equipment" and "property," see s. 79.

Legal Status of Boards and Management Committees

13.—(1) A Regional Hospital Board and the Board of Governors of a teaching hospital shall, notwithstanding that they are exercising functions on behalf of the Minister, and a Hospital Management Committee shall, notwithstanding that they may be exercising functions on behalf of the Regional Hospital Board, be entitled to enforce any rights acquired, and shall be liable in respect of any liabilities incurred (including liabilities in tort), in the exercise of those functions, in all respects as if the Board or Committee were acting as a principal, and all proceedings for the enforcement of such rights or liabilities, shall be brought by or against the Board or Committee in their own name.

(2) A Regional Hospital Board, Board of Governors or Hospital Management Committee shall not be entitled to claim in any proceedings any privilege of the Crown in respect of the discovery or production of documents, but this subsection shall be without prejudice to any right of the Crown to withhold or procure the withholding from production of any document on the ground that its disclosure would be contrary to the public interest.

The effect of this section is to make the three types of hospital corporations referred to responsible as principals in all legal actions in respect of their functions under the Act and to deprive them of any Crown privileges in respect of legal proceedings, saving only the right of the Crown to withhold documents on grounds of public policy; but this right is not delegated to the subordinate corporations mentioned. As to recovery of charges, see s. 71 and National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948, regs. 4, 5 and 7.

As to funds for meeting any liability under this section, see s. 54.

[1] S. I. 1948, No. 60.

Unless the Minister approved the expenditure in the prescribed manner, it is not clear what assets any of these bodies corporate would have for satisfying a judgment except a judgment having reference to trust funds held under s. 59 or under s. 7 (1), or the proviso to s. 7 (4).

For meaning of " hospital," see s. 79.

Conditions of Service and Appointment of Officers

14.—(1) All officers employed for the purposes of any hospital providing hospital and specialist services, other than a teaching hospital, shall be officers of the Regional Hospital Board for the area in which the hospital is situated, and all officers employed for the purposes of a teaching hospital shall be officers of the Board of Governors of that hospital, and the remuneration and conditions of service of all such officers shall, subject to regulations, be determined by the Regional Hospital Board or the Board of Governors, as the case may be.

As to " hospital and specialist services," see s. 3 (1), and as to regulations as to remuneration and conditions of service, s. 66. See also note to s. 12 (1).

For meaning of " officers," " hospital," " teaching hospital," and " regulations," see s. 79.

(2) Regulations may make provision with respect to the appointment of such classes of the medical or dental officers employed on the staff of any such hospitals as aforesaid as may be specified in the regulations, and such regulations shall, without prejudice to the generality of the foregoing provision, provide—

(*a*) for the advertisement by the Regional Hospital Board or Board of Governors, as the case may be, of any vacancy in any office to which the regulations apply ;

(*b*) for the constitution by the Regional Hospital Board or Board of Governors, as the case may be, on the occasion of each such vacancy, of an advisory appointments committee consisting—

(i) in the case of a hospital other than a teaching hospital, of persons nominated by the Regional Hospital Board and the Hospital Management Committee of the hospital affected, respectively ;

(ii) in the case of a teaching hospital, of persons

nominated by the Board of Governors and the university with which the hospital is associated, respectively ;

(*c*) for the selection by the appointments committee from the applicants of the persons considered by them to be suitable for the appointment, and for the making of the appointment, from the persons so selected, by the Regional Hospital Board or Board of Governors, as the case may be ;

(*d*) for the payment by the Regional Hospital Board or Board of Governors, as the case may be, of the reasonable expenses of any appointments committee constituted as aforesaid.

This sub-section, applicable only to medical and dental appointments, is in addition to s. 66. It is to be noted that whilst the Minister *may* make regulations on other points connected with the making of medical and dental appointments, he is apparently obliged to make regulations covering the things mentioned in paragraphs (*a*) to (*d*) of this sub-section. It might, however, be argued that his obligation to provide by regulations for items (*a*) to (*d*) arises only if he exercises the option of making any regulations at all.

For meaning of " regulations," " medical," " hospital," " teaching hospital," see s. 79.

Medical Schools in London

15.—(1) If any general medical school of the university of London or any school in the faculty of medicine of that university which is recognised for dentistry only is not incorporated at the passing of this Act, the governing body of the school shall, within a period of six months from the passing of this Act, prepare and submit to the governing body of the said university a scheme, to take effect on the appointed day, for constituting a new governing body of the school, which shall be a body corporate with power to hold land without licence in mortmain, and for conferring powers and imposing duties on that body and otherwise for the future management and control of the school ; and any such scheme shall make provision for including among the members of the new governing body persons representing the university, the teaching staff

of the school, and the Board of Governors of the teaching hospital with which the school is associated, respectively.

(2) A scheme prepared and submitted under the last foregoing subsection shall not have effect unless it has been approved by the governing body of the said university, and the said governing body may either approve the scheme without modifications or with such modifications as may be agreed between them and the governing body of the school.

(3) Any such scheme may be amended by a new scheme prepared by the governing body of any such school and submitted to and approved by the governing body of the university of London.

(4) Any scheme prepared, submitted and approved under this section shall have effect notwithstanding anything in any Act of Parliament, charter, or other document affecting the constitution of the school.

This section should be read in conjunction with s. 8.

Ancillary Services Provided by the Minister

Research

16.—(1) Without prejudice to the general powers and duties conferred or imposed on the Minister under the Ministry of Health Act, 1919,[1] and the duties imposed on the Committee of the Privy Council for Medical Research under the said Act, the Minister may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness or mental defectiveness.

(2) The Board of Governors of a teaching hospital and a Regional Hospital Board and a Hospital Management Committee shall have power to conduct research into any of the matters aforesaid.

Whilst s. 12 (3) imposes a duty on boards of governors of teaching hospitals to provide facilities for the universities with which they are associated for teaching and research, this section empowers the Minister to conduct or assist in research and also authorises all the statutory hospital authorities to conduct research. But apparently no power is given to regional hospital boards or to hospital

[1] 9 & 10 Geo. 5, c. 21.

management committees to provide any undergraduate, or even post-graduate, teaching facilities, except so far as the latter at all events can be brought under the head of research.

Bacteriological Service

17. The Minister may provide a bacteriological service, which may include the provision of laboratories, for the control of the spread of infectious diseases, and the Minister may allow persons to make use of services provided at such laboratories on such terms, including terms as to the payment of charges, as the Minister thinks fit.

There would seem no reason why such facilities should not be provided as far as convenient through regional boards, boards of governors and hospital management committees.

Blood Transfusion and Other Services

18. Where the Minister has, in providing hospital and specialist services, acquired supplies of human blood for the purpose of carrying out blood transfusion, or supplies of any other substances or preparations not readily obtainable in cases of emergency, he may make arrangements for making such supplies available, on such terms, including terms as to the payment of charges, as the Minister thinks fit, to local health authorities and medical practitioners who require them in cases of emergency.

As to meaning of hospital and specialist services, see s. 3 (1). Seemingly supplies of blood would ordinarily be through hospital governing bodies.

PART III

HEALTH SERVICES PROVIDED BY LOCAL HEALTH AUTHORITIES

Local Health Authorities

19.—(1) Subject to the provisions of this section, the local authority for the purposes of this Part of this Act, who shall be called the "local health authority," shall for each county be the council of the county and for each county borough be the council of the county borough.

Local health authorities as here defined perform the functions conferred on them in ss. 20–30. See also ss. 63–65.

As to financial grants from Ministry of Health, see s. 53.

As to adjustments consequent on transferred functions, see ss. 69 and 78.

The local health authority for the Isles of Scilly is the Council of the Isles, this by virtue of the Isles of Scilly (National Health Service) Order, 1948.[1]

(2) Where it appears to the Minister to be expedient in the interests of the efficiency of any services provided by local health authorities, whether under this Part of this Act or under any other enactment conferring functions on any local health authority in their capacity as such an authority, that a joint board should be established for the areas of two or more local health authorities for the purpose of performing all or any of the functions of those authorities, the Minister may by order constitute a joint board consisting of members appointed by those authorities and provide for the exercise by the board, in lieu of the authorities, of such of the said functions as may be specified in the order :

Provided that the Minister shall not make such an order except after a local inquiry, unless all the authorities for the areas concerned have consented to the making of the order.

The principal functions of a local health authority not dealt with in the present Act are to be found in the Public Health Act, 1936, and the Public Health (London) Act, 1936, as amended by this Act, notably under Part II in respect of transfer of hospitals and of the duty of providing them. As to dissolution of joint boards constituted under Public Health Act, 1936, see s. 78.

(3) The provisions of Part I of the Fourth Schedule to this Act shall have effect with respect to joint boards constituted under this section, and to orders constituting such joint boards and the provisions of Part II of the Fourth Schedule to this Act shall have effect with respect to health committees of local health authorities.

Joint boards constituted under s. 19 will, by virtue of Part I of the Fourth Schedule, be bodies corporate with perpetual succession and power to hold land without licence in mortmain. For the remaining rules as to constitution see that schedule. But health

[1] S. I. 1948, No. 167.

committees of local authorities will not be bodies corporate, though a local health authority is obliged to appoint such committee and may authorise the health committee to exercise on their behalf any of their functions as a local health authority except power to borrow money or to levy or issue a precept for a rate. For further particulars, see Fourth Schedule and comments thereon.

Proposals for Provision of Services by Local Health Authority

20.—(1) Every local health authority shall, within such period as the Minister may by direction specify, submit to the Minister proposals for carrying out their duties under the next following eight sections of this Act.

The Minister may specify different periods under this section for proposals relating to duties under different sections.

(2) Not later than the day on which the proposals are submitted to the Minister, the local health authority shall serve a copy thereof—

(*a*) on every voluntary organisation which to the knowledge of the local health authority provides in the area of the authority services of the kind dealt with in the proposals, and

(*b*) on the Executive Council (as constituted under Part IV of this Act), and the Regional Hospital Board for any area which consists of or comprises the area of the local health authority or any part thereof, and the Board of Governors of any teaching hospital situated in the area of the local health authority ; and

(*c*) on every local authority for an area forming part of the area of the local health authority ;

and any such voluntary organisation, Council, Board or authority may, within two months of the service on them of a copy of the proposals make recommendations to the Minister for modifying the proposals and shall, not later than the day on which such recommendations are made, serve a copy thereof on the local health authority.

(3) The Minister may approve the proposals with or without modifications (which may include additions or exceptions), and it shall be the duty of the local health authority to carry out their duties under the next following eight sections of this Act in accordance with the proposals submitted and approved for their area under this section, subject to any modifications

made by subsequent proposals so submitted and approved.

(4) A local health authority may at any time, and if directed by the Minister shall within the period specified in the direction, submit new proposals providing for the modification of the existing proposals, and the last two foregoing subsections shall apply to any such new proposals.

(5) If any local health authority fail to submit any proposals which they are required to submit within a period specified by direction of the Minister, the Minister may himself make proposals, and they shall have effect as if they had been submitted and approved under the foregoing provisions of this section :

Provided that, before making any such proposals, the Minister shall serve a copy of the draft proposals on every voluntary organisation which to the knowledge of the Minister provides in the area of the local health authority services of the kind dealt with in the proposals and on the bodies mentioned in paragraph (*b*) or paragraph (*c*) of subsection (2) of this section, and give an opportunity to those organisations and bodies to make recommendations to him for modifying the proposals.

The obligation is on the local health authority to submit proposals to the Minister, making them known to organisations mentioned in sub-s. (2). The Minister may either approve the proposals or modify them and then approve. He could, for example, modify the proposals so as to allow a voluntary body to continue providing, say, district nursing, and oblige the local health authority to pay for such services. Equally he could reject a proposal for such co-operation made in the original proposals. It must be appreciated that these are but casual examples and not intended to suggest any limits to the Minister's discretion. Sub-s. (4) is important as allowing new proposals to be put forward at any time either on the initiative of the authority or of the Minister.

Attention is drawn to the Minister's power to make proposals for a local health authority in default. Further default powers are contained in s. 57.

See also s. 51 as to duty to submit proposals as to carrying out duties under the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, which section also authorises arrangements with voluntary organisations for the performance of service under the Mental Deficiency Acts, 1913 to 1938, and, with the approval of the Minister for contributions by the local health authority to such organisations.

Health Centres

21.—(1) It shall be the duty of every local health authority to provide, equip, and maintain to the satisfaction of the Minister premises, which shall be called "health centres," at which facilities shall be available for all or any of the following purposes :—

(*a*) for the provision of general medical services under Part IV of this Act by medical practitioners ;

(*b*) for the provision of general dental services under Part IV of this Act by dental practitioners ;

(*c*) for the provision of pharmaceutical services under Part IV of this Act by registered pharmacists ;

(*d*) for the provision or organisation of any of the services which the local health authority are required or empowered to provide ;

(*e*) for the provision of the services of specialists or other services provided for out-patients under Part II of this Act ; or

(*f*) for the exercise of the powers conferred on the local health authority by section one hundred and seventy-nine of the Public Health Act, 1936,[1] or section two hundred and ninety-eight of the Public Health (London) Act, 1936,[2] for the publication of information on questions relating to health or disease, and for the delivery of lectures and the display of pictures or cinematograph films in which such questions are dealt with.

(2) A local health authority shall to the satisfaction of the Minister provide staff for any health centre provided by them :

Provided that a local health authority shall not employ medical or dental practitioners at health centres for the purpose of providing general medical services or general dental services under Part IV of this Act.

In spite of the mandatory opening of this section : "It shall be the duty of every local authority to provide . . . 'health centres' . . ." the duty is apparently only enforceable by the Minister's insisting on such provision in proposals under s. 20. It remains to be seen whether the Minister will insist on early implementation of the section or whether in many areas—possibly

[1] 26 Geo. 5 & 1 Edw. 8, c. 49. [2] 26 Geo. 5 & 1 Edw. 8, c. 50.

on grounds of building and other difficulties—it will not be enforced.

Services under sub-s. (1) (*a*) and (*b*) would have to be provided through medical and dental practitioners in contract with the local executive council. Sub-s. (1) (*d*) refers to services under ss. 22–30, and, presumably under ss. 63–65. Services under sub-s. (1) (*e*) would necessarily be provided by arrangement with those hospital and other authorities responsible for hospital and specialist services under Part II of the Act.

By virtue of the Isles of Scilly (National Health Service) Order, 1948,[1] sub-s. (1), in its application to the Isles of Scilly, is amended by the substitution of the words " The local health authority for the Isles of Scilly may with the approval of the Minister and to such extent as the Minister may direct " for " It shall be the duty of every local health authority to ".

Care of Mothers and Young Children

22.—(1) It shall be the duty of every local health authority to make arrangements for the care, including in particular dental care, of expectant and nursing mothers and of children who have not attained the age of five years and are not attending primary schools maintained by a local education authority.

(2) The local health authority may, with the approval of the Minister, make and recover from persons availing themselves of the services provided under this section such charges (if any) in respect of any articles provided as the authority consider reasonable, having regard to the means of those persons.

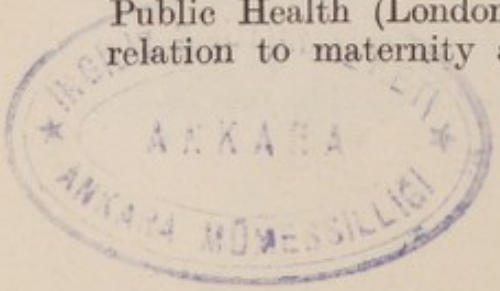
The articles for which charges may be made do not include appliances provided as part of the medical and specialist services under Part II of the Act or as part of the general medical services under Part IV. The distinction must, for example, be drawn between medicine which would be provided free and baby food which would not.

For meaning of " local education authority," see s. 79.

(3) The local health authority shall be the welfare authority for the purposes of Part VII of the Public Health Act, 1936, and section two hundred and fifty-five of the Public Health (London) Act, 1936, and the local authority for the purposes of Part XIII of the Public Health (London) Act, 1936.

The parts and sections of the Public Health Act, 1936, and the Public Health (London) Act, 1936, have reference to duties in relation to maternity and child welfare, including substantially

[1] S. I. 1948, No. 167.



the powers and duties given in general terms by the Act of 1946 to local health authorities, providing for the responsible authority for each area to set up a maternity and child welfare committee; for notification of births to the welfare authority within thirty-six hours; and for child life protection. The notification of birth here referred to must not be confused with registration of births under the Births and Deaths Registration Acts, 1836 to 1936.

By virtue of the Isles of Scilly (National Health Service) Order, 1948,[1] the following provision is substituted for s. 22 (3) as applying to the Isles :—

(3) *The Council of the Isles of Scilly shall be the welfare authority for the purposes of s.* 203 *of the Public Health Act,* 1936.

(4) Regulations may provide, in the case of areas where, under Part III of the First Schedule to the Education Act, 1944,[2] schemes of divisional administration relating to the functions of local education authorities with respect to school health services are in force, for the making, variation and revocation of corresponding schemes of divisional administration relating to the functions of local health authorities under subsection (1) of this section with respect to the care of children who have not attained the age of five years and are not attending primary schools maintained by a local education authority, and the functions of such authorities under subsection (3) of this section.

For meaning of " local education authorities," see s. 79.

(5) A local health authority may, with the approval of the Minister, contribute to any voluntary organisation formed for any of the purposes mentioned in subsection (1) of this section.

The Minister has given some pointers to local health authorities on this matter in Ministry of Health Circular (1947, No. 118). In paragraphs 4 and 5 are found certain general principles set out, including the suggestion that it is appropriate for local health authorities to claim some share in the management of voluntary organisations to which they give their support. See also paragraph 21 of the circular. The circular—although it has not itself the force of law—is significant since the powers under s. 22 (5) are exercisable only with the approval of the Minister. On the other hand, it is conceivable that a scheme under s. 20 failing to take account of voluntary organisations already providing services might not be approved by the Minister.

For meaning of " voluntary," see s. 79.

[1] S. I. 1948, No. 167. [2] 7 & 8 Geo. 6, c. 31.

Midwifery

23.—(1) The local health authority shall be the local supervising authority for the purposes of the Midwives Acts, 1902 to 1936, and accordingly in section eight of the Midwives Act, 1902,[1] for the words "council of a county or county borough" there shall be substituted the words "local health authority" and for the words "said county or county borough" there shall be substituted the words "said authority."

(2) It shall be the duty of every local health authority to secure, whether by making arrangements with Boards of Governors of teaching hospitals, Hospital Management Committees or voluntary organisations for the employment by those Boards, Committees or organisations of certified midwives or by themselves employing such midwives, that the number of certified midwives so employed who are available in the authority's area for attendance on women in their homes as midwives, or as maternity nurses during childbirth and from time to time thereafter during a period not less than the lying-in period, is adequate for the needs of the area.

In this subsection the expression "lying-in period" means the period defined as the lying-in period by any rule for the time being in force under section three of the Midwives Act, 1902.

See note to s. 22 (5) and paragraph 29 of Ministry of Health Circular (1947, No. 118). But the approval of the Minister is not apparently requisite to any financial agreement by a local health authority with voluntary organisations for providing midwives.

The "lying-in period" means the period laid down in the rules of the Central Midwives Board.

For meaning of "voluntary," see s. 79.

(3) Subsection (1) of section nine of the Midwives Act, 1936[2] (which enables the Minister to prescribe conditions subject to which fees are to be payable by the local health authority to medical practitioners called in by midwives) shall have effect as if at the end of the subsection there were added the words "including conditions as to the qualifications of such medical practitioners."

[1] 2 Edw. 7, c. 17.

[2] 26 Geo. 5 & 1 Edw. 8, c. 40.

Health Visiting

24.—(1) It shall be the duty of every local health authority to make provision in their area for the visiting of persons in their homes by visitors, to be called "health visitors," for the purpose of giving advice as to the care of young children, persons suffering from illness and expectant or nursing mothers, and as to the measures necessary to prevent the spread of infection.

(2) The duty of a local health authority under this section may be discharged by making arrangements with voluntary organisations for the employment by those organisations of health visitors or by themselves employing health visitors.

In Ministry of Health Circular (1947, No. 118) to local health authorities the Minister draws attention to the widened scope of the duties of "health visitors" (paragraph 30). The specially significant word in the definition of their duties is *illness*, which by s. 79 includes mental illness, but not mental defectiveness. It will be observed that the approval of the Minister is not required to arrangements with voluntary organisations for the purposes of the section, but see also note to s. 20 and also Circular 118, paragraphs 4 and 5.

For meaning of "illness" and "voluntary," see s. 79.

Home Nursing

25. It shall be the duty of every local health authority to make provision in their area, whether by making arrangements with voluntary organisations for the employment by those organisations of nurses or by themselves employing nurses, for securing the attendance of nurses on persons who require nursing in their own homes.

See note to s. 24 and also paragraphs 4, 5 and 31–33 of Ministry of Health Circular (1947, No. 118).

For meaning of "voluntary," see s. 79.

Vaccination and Immunisation

26.—(1) Every local health authority shall make arrangements with medical practitioners for the vaccination of persons in the area of the authority against smallpox, and the immunisation of such persons against diphtheria.

(2) Any local health authority may with the approval of

the Minister, and if directed by the Minister shall, make similar arrangements for vaccination or immunisation against any other disease.

(3) In making arrangements under this section a local health authority shall give every medical practitioner providing general medical services in their area under Part IV of this Act an opportunity to provide services under this section.

(4) The Minister may, either directly or by entering into arrangements with such persons as he thinks fit, supply free of charge to local health authorities and medical practitioners providing services under this section, vaccines, sera or other preparations for vaccinating or immunising persons against any disease.

(5) The Vaccination Acts, 1867 to 1907, shall cease to have effect.

As to arrangements to be made with medical practitioners under sub-s. (3), see Ministry of Health Circular (1947, No. 118). The effect of sub-s. (5) is that, as from the appointed day, vaccination of infants is no longer compulsory.

For meaning of " medical practitioners," see s. 79.

Ambulance Services

27.—(1) It shall be the duty of every local health authority to make provision for securing that ambulances and other means of transport are available, where necessary, for the conveyance of persons suffering from illness or mental defectiveness or expectant or nursing mothers from places in their area to places in or outside their area.

(2) A local health authority may carry out their duty under this section either by themselves providing the necessary ambulances and other means of transport and the necessary staff therefor or by making arrangements with voluntary organisations or other persons for the provision by them of such ambulances, transport and staff.

This service is to be provided free of charge (s. 1 (2)), but the responsibility of local health authorities is strictly limited by the use in sub-s. (1) of the words " where necessary," which presumably limits the obligation to the provision of ambulances, etc., for conveyance of patients to or from a place of treatment or advice under the general scheme of the Act. It could hardly be claimed that a local health authority had to provide transport, say, for a patient

who had—as a private patient—elected to consult a specialist in another part of the country, or who chose to go for treatment into a distant nursing home, or even, as a private patient, to a distant hospital. The argument against such extension of the obligation is that whilst treatment may be necessary, the particular arrangements made by the patient therefor are not necessary.

Financial arrangements may be made with voluntary organisations for providing an ambulance service. For Minister's views, see Ministry of Health Circular (1947, No. 118). As to taking due account of voluntary organisations in framing scheme, see notes to s. 20.

For meaning of " illness " and " voluntary," see s. 79.

Prevention of Illness, Care and After-care

28.—(1) A local health authority may with the approval of the Minister, and to such extent as the Minister may direct shall, make arrangements for the purpose of the prevention of illness, the care of persons suffering from illness or mental defectiveness, or the after-care of such persons, but no such arrangements shall provide for the payment of money to such persons, except in so far as they may provide for the remuneration of such persons engaged in suitable work in accordance with the arrangements.

(2) A local health authority may, with the approval of the Minister, recover from persons availing themselves of the services provided under this section such charges (if any) as the authority consider reasonable, having regard to the means of those persons.

(3) A local health authority may, with the approval of the Minister, contribute to any voluntary organisation formed for any such purpose as aforesaid.

The provision authorised by this section—subject to the approval of the Minister—for the care and after-care of persons suffering from illness or mental defectiveness subject to such charges as may be made under sub-s. (2) must be distinguished from (i) treatment of illness, whether under Part II or Part IV of the Act which is provided free ; (ii) care of expectant and nursing mothers and young children, which—apart from articles supplied—is free (s. 22) ; (iii) free midwifery and maternity nursing (s. 23) ; and (iv) free home nursing (s. 25). The care for which a charge according to means may be made under this section is therefore care not falling into any of those classes, and, in particular, which cannot be called

home nursing. The normal assumption, therefore, would be that this section refers to domestic attendance on such persons, but domestic help is actually provided for under s. 29, on similar terms to care and after-care under s. 28. Hence we are driven to find another meaning.

In the case of persons suffering from mental defectiveness it may be argued that necessary personal care is not nursing, but in the case of persons suffering from illness as defined in s. 79, it is difficult to think of any care, not being domestic attendance, that would not be nursing. After-care is, perhaps, more understandably put into a separate category as being distinguished from nursing on the one hand and domestic help on the other.

The Minister, in Circular 1947/118 (paragraph 37), has, under this section *directed that arrangements shall be made* by every local health authority for the purpose of preventing tuberculosis and for the care and after-care of persons suffering from tuberculosis. They are also invited to consider the desirability of making arrangements with regard to persons suffering from any other kind of illness.

For further suggestions as to use of powers under this section, see paragraphs 38–44 of the circular, particularly as to provision of workshops, sheltered occupations, hostel accommodation and village settlements for ex-T.B. patients. Night sanatoria are also mentioned (paragraph 39), but it is difficult to see why these should not be regarded as hospital and specialist services.

For meaning of "voluntary," see s. 79.

Domestic Help

29.—(1) A local health authority may make such arrangements as the Minister may approve for providing domestic help for households where such help is required owing to the presence of any person who is ill, lying-in, an expectant mother, mentally defective, aged, or a child not over compulsory school age within the meaning of the Education Act, 1944.

(2) A local health authority may, with the approval of the Minister, recover from persons availing themselves of the domestic help so provided such charges (if any) as the authority consider reasonable, having regard to the means of those persons.

This section, as regards provision of domestic help, is substantially similar to s. 28 as to provision of care and after-care, but it is to be noted that the class of persons in respect of whom domestic help may be provided is considerably wider than that for provision of care and after-care under s. 28.

Appointed Day for the Purposes of Part III

30. This Part of this Act, except sections nineteen and twenty, shall come into force on the appointed day.

For meaning of "appointed day," see s. 79. By the National Health Service Act (Appointed Day) Order, 1948,[1] 5th July, 1948, has been fixed as the "appointed day."

PART IV

GENERAL MEDICAL AND DENTAL SERVICES, PHARMACEUTICAL SERVICES AND SUPPLEMENTARY OPHTHALMIC SERVICES

Administration

Executive Councils

31.—(1) There shall be constituted in accordance with the provisions of the Fifth Schedule to this Act for the area of every local health authority, a council, to be called the Executive Council, for the purpose of exercising functions with respect to the provision of services under this Part of this Act, and the supplementary provisions contained in the said Schedule shall apply to every such Council.

By virtue of the Isles of Scilly (National Health Service) Order, 1948,[2] the Executive Council of the Isles is to be constituted in accordance with the provisions contained in the Schedule to that Order and sub-s. (1) of this Act is to have effect accordingly.

(2) Where it appears to the Minister, either before or after Executive Councils have been constituted under the last foregoing subsection, to be expedient in the interests of the efficiency of the services provided under this Part of this Act that a single Executive Council should be constituted for the area of two or more local health authorities, he may by order provide for the constitution of such a Council, and the Fifth Schedule to this Act shall apply to the constitution thereof subject to the modification that the members of the Council to be appointed by the local health authority shall be appointed by the several authorities concerned in such proportions as the order may provide.

[1] S. I. 1948, No. 112.

[2] S. I. 1948, No. 167.

Where any such order is revoked by a subsequent order of the Minister, then, subject to any new order made under this subsection, separate Executive Councils shall be constituted under this section for the areas of the local health authorities concerned.

(3) Where it appears to the Minister that owing to the special circumstances of the area for which an Executive Council has been or is to be constituted under this section it is desirable to vary the constitution of that Council, he may by order provide for such variation :

Provided that, before making any such order with respect to a Council already constituted, he shall consult with that Council, and in making any order under this subsection he shall have regard to the desirability of maintaining, so far as practicable, the same numerical proportion as between the members appointed by the several authorities and bodies mentioned in the Fifth Schedule to this Act.

In the application of the proviso to this sub-section to the Isles of Scilly, the words from " and in making " to the end of the proviso are to be omitted, this by virtue of the Isles of Scilly (National Health Service) Order, 1948.[1]

(4) Where it appears to the Minister to be expedient in the interests of the efficiency of the services provided under this Part of this Act that a joint committee should be established for the areas of two or more Executive Councils for the purpose of exercising some but not all of the functions of the Executive Council, the Minister may by order constitute such a joint committee and provide for the exercise by that committee of such of the said functions as may be specified in the order, and for the payment of the expenses of the committee by the constituent councils, and for the application, with such modifications as may be so specified, to that committee of any provisions of this Act relating to those functions, and for any of the matters for which, in relation to an Executive Council, regulations made under the Fifth Schedule to this Act may provide.

(5) Any order made under this section, and any order revoking such an order, may contain such supplementary and

[1] S. I. 1948, No. 167.

incidental provisions as appear to the Minister to be necessary or expedient, including provision for the transfer of officers and their compensation by the Minister and the transfer of property and liabilities.

Executive councils are to be corporate bodies with perpetual succession and a common seal. For further details of constitution, see Fifth Schedule, and as to finance of Executive Councils, s. 54.

Orders under sub-s. (2) have already, at the time of writing, been made as follows .—

The National Health Service (Leicestershire and Rutland) Executive Council Order, 1947.

The National Health Service (Monmouthshire and Newport) Executive Council Order, 1947.

The National Health Service (Denbighshire and Flintshire) Executive Council Order, 1947.

It is to be observed that orders made under this section, although possibly providing for compensation of officers, do not need to be laid before Parliament under s. 75.

Local Representative Committees

32.—(1) Where the Minister is satisfied that a local committee formed for the area of any Executive Council is representative—

(*a*) of the medical practitioners of that area, or

(*b*) of the persons providing pharmaceutical services in that area, or

(*c*) of the dental practitioners of that area,

the Minister may recognise that committee, and any committee so recognised shall be called the Local Medical Committee, the Local Pharmaceutical Committee or the Local Dental Committee, as the case may be, for the area concerned.

(2) The Executive Council shall in exercising their functions under this Part of this Act consult with the said Committees on such occasions and to such extent as may be prescribed, and the said Committees shall exercise such other functions as may be prescribed.

Although by virtue of the Fifth Schedule these committees are to nominate a certain proportion of the members of the Executive Council, it must be appreciated that this section does not compel the establishment of such committee or oblige the Minister to recognise such as may be set up unless he is satisfied that they are representative. If no committee or no representative committees

are set up in any area the Minister can nevertheless establish an Executive Council under the provision of s. 31 (3).

General Medical Services

Arrangements for General Medical Services

33.—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements with medical practitioners for the provision by them as from the appointed day, whether at a health centre or otherwise, of personal medical services for all persons in the area who wish to take advantage of the arrangements, and the services provided in accordance with the arrangements are in this Act referred to as "general medical services."

(2) Regulations may make provision for defining the personal medical services to be provided and for securing that the arrangements will be such that all persons availing themselves of those services will receive adequate personal care and attendance, and the regulations shall include provision—

(*a*) for the preparation and publication of lists of medical practitioners who undertake to provide general medical services ;

(*b*) for conferring a right on any person to choose, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended, subject to the consent of the practitioner so chosen and to any prescribed limit on the number of patients to be accepted by any practitioner ;

(*c*) for the distribution among medical practitioners whose names are on the lists of any persons who have indicated a wish to obtain general medical services but who have not made any choice of medical practitioner of have been refused by the practitioner chosen ;

(*d*) for the issue to patients or their personal representatives by medical practitioners providing such services as aforesaid of certificates reasonably required by them under or for the purposes of any enactment.

Medical and dental practitioners providing services under Part IV of the Act will work under contract with the local Executive Councils in accordance with ss. 34 *et seq.* and not under the local health

authority, even though practising at a health centre, as to which see proviso to s. 21. But for special purposes, such as vaccination, immunisation, provision of maternity and child welfare services such practitioners will, if they take part in providing such services, do so by contract with the local health authority. See further s. 26 and also Ministry of Health Circular (1947, No. 118).

The general nature of the general medical services, is best explained by saying that they are those services ordinarily provided by a general medical practitioner or "family doctor." As to the extent of such services and other matters to be prescribed under this section, reference should be made to the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948.

As to choice of doctor in the case of persons who cannot choose for themselves under s. 33 (2) (*b*) refer to s. 45.

It will be appreciated that as no charge is laid down or authorised for certificates under sub-s. (2) (*c*) "for the purpose of any enactment" the issue of such certificates will be free (s. 1 (2)).

Complaints against a medical practitioner fall to be dealt with by the tribunal under s. 42, but presumably could be made in the first place to the Executive Council, which itself has a right of complaint under the section. Any person claiming or receiving service under the Act having a dispute with an Executive Council may appeal to the Minister under s. 47.

For meaning of "regulations," "medical practitioners," "appointed day" and "medical," see s. 79.

Distribution of Medical Practitioners Providing Services

34.—(1) Subject to the provisions of this Part of this Act relating to the disqualification of practitioners, every medical practitioner engaged in medical practice (otherwise than as a paid assistant) who wishes to provide general medical services shall be entitled, on making an application at any time before the appointed day in the prescribed manner to the Executive Council for any area in which he is practising, to be included in the list of medical practitioners undertaking to provide general medical services for persons in that area.

(2) With a view to securing that the number of medical practitioners undertaking to provide general medical services in the areas of different Executive Councils or in different parts of those areas is adequate, the Minister shall constitute a committee, to be called the Medical Practices Committee, for the purpose of considering and determining applications—

(*a*) made before the appointed day by a medical practitioner who is not entitled under the last foregoing subsection to be included in the list of an Executive Council, for inclusion in that list ; and

(*b*) made on or after the appointed day for inclusion in any such list kept by an Executive Council for any area ;

and all such applications made in the prescribed manner to an Executive Council shall be referred by that Council to the said Committee, and any medical practitioner whose application is granted by the said Committee shall, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, be entitled to be included in the list.

(3) The Medical Practices Committee may refuse any such application on the ground that the number of medical practitioners undertaking to provide general medical services in the area or part of an area concerned is already adequate, and, if in the opinion of the Committee additional practitioners are required for any area or part but the number of persons who have made applications exceeds the number required, the Committee shall select the persons whose applications are to be granted and shall refuse the other applications.

Before selecting any persons under this subsection the Medical Practices Committee shall consult the Executive Council concerned, and that Council shall, if a Local Medical Committee has been formed for the area of the Council and recognised under the last but one foregoing section, consult that Committee before expressing their views on the persons to be selected.

(4) Except as provided by the last foregoing subsection, the Medical Practices Committee shall not refuse any such application, but the Committee may grant an application subject to conditions excluding the provision of general medical services by the applicant in such part or parts of the area of the Executive Council as the Committee may specify.

(5) The Medical Practices Committee shall be constituted in accordance with the Sixth Schedule to this Act and the provisions of that Schedule shall apply to that Committee.

(6) A medical practitioner who has made such an application as aforesaid which has been refused or has been granted

subject to the said conditions, may appeal to the Minister, and the Minister may, on any such appeal, direct the said Committee to grant the application either unconditionally or subject to such conditions as the Minister may specify.

(7) Where the Medical Practices Committee select persons from a number of applicants, the persons selected shall not, during the period for bringing an appeal to the Minister or pending the determination of any such appeal, be included in the list in question, and on any such appeal the Minister may, if he grants the appeal, direct either that the application shall be granted in addition to the applications already granted or that it shall be granted instead of such one of those applications as the Minister may specify :

Provided that in the latter case he shall make the other applicant a party to the appeal, and no further appeal shall be brought by that applicant in respect of the application in question.

(8) Regulations shall make provision—

(*a*) for requiring Executive Councils to make reports, at such times and in such manner as may be prescribed, to the Medical Practices Committee as to the number of medical practitioners required to meet the reasonable needs of their area and the different parts thereof and as to the occurrence of any vacancies on the lists of medical practitioners kept by them under this Part of this Act and as to the need for filling such vacancies ;

(*b*) for prescribing the procedure for the determination of applications by the Medical Practices Committee and for the making and determination of appeals to the Minister under this section, and for requiring Executive Councils and applicants to be informed of the decisions of the Committee and the Minister ;

(9) The Medical Practices Committee shall, in a case where persons have to be selected from a number of applicants, and the Minister shall, on an appeal in any such case, have regard to any desire expressed by any applicant to practise with other medical practitioners already providing general medical services in the area or part of an area concerned, and of any desire expressed by such other medical practitioners to take

any applicant into practice with them, and shall have special regard to the matters aforesaid in cases where an applicant is related to any such other medical practitioner.

By s. 34 (1) all registered medical practitioners, other than paid assistants and not being disqualified under s. 42, engaged in practice in the area of any Executive Council, are entitled on making application before the appointed day to be included in the list of those providing general medical services under Part IV of the Act in that area. Apparently under this sub-section it would be open to any specialist practising in the area to opt for general practice under the Act. Persons included in the list for any area under this sub-section may practice in any part of that area without restriction.

Paid assistants and all other medical practitioners not falling within sub-s. (1) desirous of inclusion in the list for any area must make application to the appropriate Executive Council in the prescribed manner, and any application so made will be transmitted to the Medical Practices Committee, constituted in accordance with sub-s. (5) and the Sixth Schedule, to be determined in accordance with the provisions of the Act (sub-s. (2)).

Apart from the provisions of s. 42 relating to disqualification, the Medical Practices Committee may refuse an application only on the ground that the number of practitioners is already adequate or, of a number of applicants for the same area select only sufficient to make up the necessary number, but before making any selection it must consult the Executive Council and the Local Medical Committee, if any (sub-s. (3)). It is also to have regard to the wishes of the applicant and of practitioners in the area to practice together, especially where there is any relationship (sub-s. (9)).

Any application granted by the Medical Practices Committee may, by sub-s. (4), be subject to conditions excluding the applicant from practice in certain parts of the area, but it is not laid down that such limitation is to be imposed only on the ground that the parts of the area to which the exclusion applies are already fully provided for. The omission of any such proviso is, it is suggested, deliberate and with a view to allowing full discretion, *inter alia*, when granting an application with special regard to sub-s. (9) to restrict the applicant to the district where his relatives or friends are practising, so that the provisions of sub-s. (9) shall not be used as a mere subterfuge to enter an attractive area without any real intention of working in the particular district from which the application is supported.

Any medical practitioner whose application has been refused or granted conditionally may appeal to the Minister (sub-s. (6)), which appeals will be disposed of in accordance with regulations to be made under sub-s. (8). When applicants have been selected from a group for inclusion in the list they are not to be so included during the period allowed for bringing an appeal (sub-s. (7)).

For matters prescribed see National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948.

As to finance of Medical Practices Committee, see s. 54.

For meaning of " medical practitioner," " medical," " appointed day," " prescribed " and " regulations," see s. 79.

Prohibition of Sale of Medical Practices

35.—(1) Where the name of any medical practitioner is, on the appointed day or at any time thereafter, entered on any list of medical practitioners undertaking to provide general medical services, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner :

Provided that, where a medical practitioner, whose name has ceased to be entered on any such list as aforesaid, practises in the area of an Executive Council on whose list his name has never been entered, this subsection shall not render unlawful the sale of the goodwill or any part of the goodwill of his practice in that area.

(2) Any person who sells or buys the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of the last foregoing subsection, shall be guilty of an offence and shall be liable on conviction on indictment to a fine not exceeding—

(*a*) such amount as will in the opinion of the court secure that he derives no benefit from the offence ; and

(*b*) the further amount of five hundred pounds ;

or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

(3) Where any medical practitioner or the personal representative of any medical practitioner knowingly sells or lets premises previously used by that practitioner for the purposes of his practice to another medical practitioner, or in any other way disposes or procures the disposition of the premises, whether by a single transaction or a series of transactions, with a view to enabling another practitioner to use the premises for the purposes of his practice, and the consideration for the sale, letting or other disposition is substantially in excess of the consideration which might reasonably have been expected if the premises had not previously been used for the purposes of a medical practice, the sale, letting or other disposition of

the premises shall be deemed for the purposes of this section to be a sale by the first medical practitioner or his personal representative of the goodwill or part of the goodwill of the practice of that practitioner to that other practitioner.

Where a medical practitioner or his personal representative sells, lets, or disposes or procures the disposition of, any premises together with any other property, the court shall, for the purposes of this subsection, make such apportionment of the consideration as it thinks just.

(4) Where in pursuance of any partnership agreement between medical practitioners—

(*a*) any valuable consideration, other than the performance of services in the partnership business, is given by a partner or proposed partner as consideration for his being taken into partnership ;

(*b*) any valuable consideration is given to a partner, on or in contemplation of his retirement or of his acceptance of a reduced share of the partnership profits, or to the personal representative of a partner on his death, not being a payment in respect of that partner's share in past earnings of the partnership or in any partnership assets or any other payment required to be made to him as the result of the final settlement of accounts, as between him and the other partners, in respect of past transactions of the partnership ; or

(*c*) services are performed by any partner for a consideration substantially less than those services might reasonably have been expected to be worth having regard to the circumstances at the time when the agreement was made ;

there shall be deemed for the purposes of this section to have been a sale of the goodwill or part of the goodwill of the practice of any partner to whom or to whose personal representative the consideration or any part thereof is given or, as the case may be, for whose benefit the services are performed, to the partner or each of the partners by or on whose behalf the consideration or any part thereof was given or, as the case may be, the partner who performed the services, and the said sale shall be deemed for the purposes of this section to have been effected—

(i) in a case to which paragraph (*a*) or paragraph (*b*) applies, at the time when the consideration was given or, if the consideration was not all given at the same time, at the time when the first part thereof was given ; or

(ii) in a case to which paragraph (*c*) applies, at the time when the agreement was made.

(5) Where any medical practitioner performs services as an assistant to another medical practitioner for a remuneration substantially less than those services might reasonably have been expected to be worth having regard to the circumstances at the time when the remuneration was fixed, and subsequently succeeds, whether as the result of a partnership agreement or otherwise, to the practice or any part of the practice of the second practitioner, there shall be deemed for the purposes of this section to have been a sale of the goodwill or part of the goodwill of the said practice by the second practitioner to the first practitioner, unless it is shown that the said remuneration of the first practitioner was not fixed in contemplation of his succeeding to the said practice or any part thereof, and the said sale shall be deemed for the purposes of this section to have been effected at the time when the remuneration was fixed.

(6) For the purposes of this section—

(*a*) if a medical practitioner or the personal representative of a medical practitioner agrees, for valuable consideration, to do or refrain from doing any act, or allow any act to be done, for the purpose of facilitating the succession of another medical practitioner to the practice or any part of the practice of the first practitioner, the transaction shall be deemed to be a sale of the goodwill or part of the goodwill of that practice by the first practitioner or his personal representative to the second practitioner ;

(*b*) if any medical practitioner or any person acting on his behalf gives any valuable consideration to another medical practitioner or the personal representative of another medical practitioner, and the first medical practitioner succeeds or has succeeded, whether before

or after the transaction aforesaid, to the practice or any part of the practice of the second practitioner, the transaction shall be deemed to be a sale of the goodwill or part of the goodwill of the practice of the second practitioner by him or by his personal representative to the first practitioner, unless it is shown that no part of the consideration was given in respect of the said goodwill or part thereof :

Provided that this subsection shall not apply to anything done in relation to the acquisition of premises for the purposes of a medical practice, or in pursuance of a partnership agreement, or to the performance of services as an assistant to a medical practitioner.

(7) In determining for the purposes of this section the consideration given in respect of any transaction, the court shall have regard to any other transaction appearing to the court to be associated with the first transaction, and shall estimate the total consideration given in respect of both or all the transactions and shall apportion it between those transactions in such manner as it thinks just.

(8) Where any consideration is, with the knowledge and consent of a medical practitioner or his personal representative, given to any other person, and it appears to the court that the medical practitioner or, if he has died, his estate or some person beneficially interested in his estate derives a substantial benefit from the giving of the consideration, the consideration shall be deemed for the purposes of this section to have been given to the medical practitioner or his personal representative, as the case may be.

(9) Any medical practitioner or the personal representative of any medical practitioner may apply to the Medical Practices Committee for their opinion as to whether a proposed transaction or series of transactions involves the sale of the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of this section, and the Committee shall consider any such application and, if they are satisfied that the transaction or series of transactions does not involve the giving of valuable consideration in respect of the goodwill or any part of the goodwill of such a medical practice, they shall issue to the applicant a certificate to that

effect, which shall be in the prescribed form and shall set out all material circumstances disclosed to the Committee.

(10) Where any person is charged with an offence under this section in respect of any transaction or series of transactions it shall be a defence to the charge to prove that the transaction or series of transactions was certified by the Medical Practices Committee under the last foregoing subsection, and any document purporting to be such a certificate shall be admissible in evidence and shall be deemed to be such a certificate unless the contrary is proved :

Provided that, if it appears to the court that the applicant for any such certificate failed to disclose to the Committee all the material circumstances or made any misrepresentation with respect thereto, it may disregard the certificate and this subsection shall not apply thereto.

(11) A prosecution for an offence under this section shall only be instituted by or with the consent of the Director of Public Prosecutions, and the Medical Practices Committee shall, at the request of the said Director, furnish him with a copy of any certificate issued by them under subsection (9) of this section and with copies of any documents produced to them in connection with the application for that certificate.

(12) For the purposes of this and the next two following sections, references to the goodwill of a medical practice shall, in relation to a medical practitioner practising in partnership, be construed as referring to his share of the goodwill of the partnership practice.

Once a practitioner has at any time been entered on the list for the area of any Executive Council he can never sell the goodwill of his practice in that area, nor even that part of his practice (if any) concerned with private patients not on his list of those for whom he provides services under the Act. The removal of a practitioner's name from the list does not render lawful the subsequent sale of the goodwill of his practice or any part thereof (sub-s. (1)). This prohibition extends to the share of a partnership practice (sub-s. (12)). Sub-s. (2) makes a breach of sub-s. (1) an indictable offence and lays down the maximum penalties. Prosecutions are to be instituted only by or with the consent of the Director of Public Prosecutions (sub-s. (11)).

Sub-ss. (3) to (6) bring within the orbit of prohibited transactions various forms of attempted evasions of the intention of sub-s. (1), including dealings by personal representatives of a deceased practi-

tioner, including (i) sale of premises on which medical practice has been carried on at an excessive price (sub-s. (3)); (ii) valuable consideration other than services in respect of admission to partnership and services performed for excessively small consideration (sub-s. (4)); (iii) excessively low remuneration of an assistant who succeeds to the practice or is admitted partner (sub-s. (5)); (iv) agreement for valuable consideration to do or refrain from doing acts facilitating succession to practice or partnership or without agreement the giving of valuable consideration by or on behalf of a medical practitioner to another medical practitioner or his personal representatives when the first practitioner succeeds *or has succeeded* to the practice of the second unless it is shown that no part of the valuable consideration was in respect of goodwill (sub-s. (6)).

The court, in determining the consideration in respect of any transaction under the section, may have regard to associated transactions (sub-s. (7)), and where any consideration is, with the knowledge and consent of a medical practitioner or his personal representatives, given to any other person, and he or his estate has derived substantial benefit therefrom, the consideration is deemed to have been given to the practitioner or his personal representatives.

Any proposed transaction is taken out of the scope of this section if the Medical Practices Committee has on application certified their opinion to that effect provided always there has been full disclosure of all the relevant facts (sub-ss. (9) and (10)). Moreover, it is to be appreciated that only *sales* of goodwill or analogous transactions for valuable consideration are in any event an offence, and that *bonâ fide* gifts, as by, for example, a father taking his son into partnership are not illegal provided sub-s. (4) is not contravened.

Probably the most difficult case is the sale of premises referred to in sub-s. (3), the more particularly as certain houses, particularly corner sites in residential areas, have been inhabited by doctors in general practice for very many years, and are undoubtedly attractive for that purpose. Moreover, the very great increase in the price of a house property generally since 1939 makes the price originally paid by many doctors no criterion of present value. It would, therefore, be extremely difficult to determine absolutely whether any particular transaction falls within the sub-section, though the words " substantially in excess of the consideration . . ." give reasonable assurance that only transactions patently illegal are likely to be challenged, the necessity for the approval of the Director of Public Prosecution to any indictment being a further assurance.

As to compensation for extinction of goodwill, see ss. 36 and 37.

At the time of writing the official view as to the interpretation of s. 35 is as follows [1] :—

[1] See statement by Minister of Health, *Brit. Med. Journal*, Suppt., 20th December, 1947, p. 156, para. 14, read with para. 16 on p. 143.

"(*a*) Existing partnerships between doctors are not determined on the appointed day, nor is there any reason for partners to determine existing agreements. The position is the same whether all or any of the partners in a partnership join the new service.

(*b*) Clauses relating to the sale and purchase between partners of shares in the goodwill of the practice or the option to purchase such shares contained in a partnership agreement entered into before the appointed day will be unaffected by Part IV of the Act coming into operation on the appointed day and will remain operative. An obligation in such an agreement by a partner who joins the new service to buy from or sell to another partner a share in the practice, or the right of such a partner to exercise an option to buy or sell a share, either on a fixed day or the happening of an event after the appointed day, will continue as a right or liability of the partner concerned. No such sale would constitute an offence under Section 35 (2) of the Act.

(*c*) A doctor who is a member of a partnership and who joins the new service will lose the right to sell his existing share in the partnership, except to an existing partner in pursuance of the partnership agreement. While the various rights (whether in the form of options or obligations) to buy a further share in the partnership which exist under the typical partnership agreement will continue he will not be able to sell those rights. All these matters will have to be taken into consideration in fixing as between partners their respective shares of the compensation attributable to the partnership practice, and provision for this will be made in the Regulations under Section 36 (3)."

This interpretation is contested in a joint opinion of Sir Cyril Radcliffe, K.C., and Mr. J. H. Stamp.[1]

The Minister has stated categorically that if his interpretation were shown to be wrong he would introduce the necessary amending legislation.[2] He has since announced in Parliament that in order to clear up the issue he had decided, with the co-operation of the Attorney-General and the Lord Chancellor, to appoint a legal committee to inquire into the question and recommend what they thought ought to be done.[3] Consequently, those specially concerned with the interpretation of this and the succeeding section are referred to the report of the legal committee when it appears, and meanwhile to the Minister's statement and the contrary opinion here mentioned.

Any further information on the subject of this note which becomes available before this book goes to press will be included by way of

[1] *Brit. Med. Journal*, Suppt., 20th December, 1947, p. 151.

[2] *Ibid*, p. 70.

[3] *Hansard*, 9th February, 1948.

reference among the *addenda* or as an appendix. For form of certificate under sub-s. (9) see National Health Services (General Medical and Pharmaceutical Services) Regulations, 1948, reg. 11 and Second Schedule.

Compensation for Loss of Right to Sell a Medical Practice

36.—(1) Every medical practitioner whose name is entered on the appointed day on any list of medical practitioners undertaking to provide general medical services shall be entitled to be paid out of moneys provided by Parliament compensation in accordance with this section in respect of any loss suffered by him by reason that he is or will be unable to sell the goodwill or any part of the goodwill of his practice by virtue of the last foregoing section.

(2) The aggregate amount of the compensation to be paid under this section shall be the appropriate proportion of sixty-six million pounds, exclusive of any sums paid by way of interest :

Provided that, if the aggregate number of medical practitioners included on the appointed day in lists of medical practitioners providing general medical services, or lists of medical practitioners providing services under any provisions in force in Scotland corresponding with the foregoing provisions of this Part of this Act, falls short of seventeen thousand seven hundred, the said sum of sixty-six million pounds shall be reduced by an amount calculated by multiplying the number by which the said aggregate number falls short as aforesaid by one seventeen thousand nine hundredth part of sixty-six million pounds.

(3) Regulations shall—

(*a*) prescribe the manner in which and the time within which claims for compensation are to be made, and provide for determining whether any claimant has suffered loss by reason of the matters referred to in subsection (1) of this section and, if so, the extent of that loss ;

(*b*) provide for the distribution of the said aggregate amount among the persons who have suffered such loss as aforesaid, having regard to the extent of their respective losses ;

(*c*) prescribe the manner in which and the times at which the compensation is to be paid, and secure that, except in such circumstances as may be prescribed, it shall not be paid until the retirement or death of the medical practitioner concerned, whichever first occurs ; and

(*d*) provide for paying out of moneys provided by Parliament interest at two and three-quarter per cent. per annum on the amount of the compensation payable to any medical practitioner, in respect of the period from the appointed day until the time when the compensation is paid ;

and before making any regulations under this subsection the Minister shall consult such organisations as may be recognised by him as representing the medical profession.

(4) For the purpose of determining the appropriate proportion of the said sum of sixty-six million pounds—

(*a*) the aggregate amount of the losses in respect of which compensation will be payable under this section and under the corresponding provision for Scotland, respectively, shall be calculated in such manner as the Treasury may direct ; and

(*b*) the said sum of sixty-six million pounds or, as the case may be, the said sum as reduced in pursuance of the proviso to subsection (2) of this section shall be apportioned as between England and Wales on the one hand and Scotland on the other, having regard to the said respective aggregate losses, and the amount apportioned to England and Wales shall be the appropriate proportion of that sum for the purposes of this section.

This section provides for compensation for loss of goodwill for every medical practitioner whose name is entered on the appointed day on the list of those undertaking to provide general medical service, *i.e.*, practitioners included on the list by virtue of s. 34 (1). Ordinarily compensation will be payable only on the death or retirement of the practitioner concerned. The actual machinery of claims and payments is however to be settled by regulations.

As to compensation in respect of practitioners retiring from practice or dying between the passing of the Act and the appointed day, see s. 37.

No compensation will be payable to or in respect of any practitioner included on the list thereafter (*i.e.*, practitioners other than those included by virtue of s. 34 (1)).

See also, as to interpretation of this section generally, concluding paragraphs to note on s. 35.

For meaning of " medical practitioner," " appointed day " and " regulations," see s. 79.

Practitioners Dying or Retiring before Appointed Day

37. Where the Medical Practices Committee are satisfied, on the application of a medical practitioner or his personal representative, that—

(*a*) the practitioner has retired from practice or died during the period between the passing of this Act and the appointed day ; and

(*b*) the goodwill of his practice has not been sold in whole or in part before the appointed day ;

the last foregoing sections shall apply in relation to that medical practitioner and to his practice as if his name were entered on the appointed day on a list of medical practitioners undertaking to provide general medical services.

On the constitution and functions of the Medical Practices Committee, see s. 34 (2)–(9), and as to finance, s. 54.

Pharmaceutical Services, General Dental Services and Supplementary Ophthalmic Services

Arrangements for Pharmaceutical Services

38.—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements for the supply as from the appointed day, whether at a health centre or otherwise, of proper and sufficient drugs and medicines and prescribed appliances to all persons in the area who are receiving general medical services, and of prescribed drugs and medicines to all persons in the area who are receiving general dental services, and the services provided in accordance with the arrangements are in this Act referred to as " pharmaceutical services."

(2) Regulations may make provision for securing that arrangements made under this section will be such as to enable any person receiving general medical services to obtain

proper and sufficient drugs and medicines and prescribed appliances, if ordered by the medical practitioner rendering those services, from any persons with whom arrangements have been made under this section, and to enable any person receiving general dental services to obtain prescribed drugs and medicines, if ordered by the dental practitioner rendering those services, from any persons with whom such arrangements have been made, and the regulations shall include provision—

(*a*) for the preparation and publication of lists of persons who undertake to provide pharmaceutical services; and

(*b*) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, on any person who wishes to be included in any such list to be so included for the purpose of supplying such drugs, medicines and appliances as that person is entitled by law to sell.

As to provision of " pharmaceutical services " at health centres, see s. 21. Although local health authorities are not to employ medical practitioners and dentists practising at health centres, there is no similar prohibition in respect of pharmacists. As to disqualification under the Act, see s. 42.

In this section *prescribed* appears to have the meaning assigned to it in s. 79, since the expressions " ordered by the medical practitioner . . ." and " ordered by the dental practitioner . . ." are used to refer to a doctor's prescription. The National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, provide for matters to be prescribed under this section.

For meaning of " regulations " and " appointed day," see s. 79.

Persons Authorised to Provide Pharmaceutical Services

39.—(1) Except as may be provided by regulations, no arrangement shall be made by the Executive Council with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering general medical services or general dental services.

(2) Except as may be provided by regulations, no arrangements for the dispensing of medicines shall be made with persons other than persons who are registered pharmacists or are authorised sellers of poisons within the meaning of the

Pharmacy and Poisons Act, 1933,[1] and who undertake that all medicines supplied by them under the arrangements made under this Part of this Act shall be dispensed either by or under the direct supervision of a registered pharmacist or by a person who for three years immediately before the sixteenth day of December, nineteen hundred and eleven, acted as a dispenser to a medical practitioner or a public institution.

(3) Nothing in this Act shall interfere with the rights and privileges conferred by the Apothecaries Act, 1815,[2] upon any person qualified under that Act to act as an assistant to any apothecary in compounding and dispensing medicines.

Substantially, this section restricts the provision of pharmaceutical services to registered pharmacists and shops under supervision of a registered pharmacist, except so far as otherwise provided by regulations. See further provisions of National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948.

Arrangements for General Dental Services

40.—(1) It shall be the duty of every Executive Council in accordance with regulations to make as respects their area arrangements with dental practitioners under which, as from the appointed day, any person in the area for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and appliances, whether at a health centre or otherwise, shall receive such treatment and appliances, and the services provided in accordance with the arrangements are in this Act referred to as "general dental services."

(2) Regulations may make provision as to the arrangements to be made under the last foregoing subsection, and shall include provision—

(*a*) for the preparation and publication of lists of dental practitioners who undertake to provide general dental services ;

(*b*) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, on any dental practitioner, who wishes to be included in any such list, to be so included ;

[1] 23 & 24 Geo. 5, c. 25. [2] 55 Geo. 3, c. 194.

(*c*) for conferring a right on any person to choose in accordance with the prescribed procedure the dental practitioner from whom he is to receive general dental services, subject to the consent of the practitioner so chosen ;

(*d*) for constituting a Board, to be called the Dental Estimates Board, of whom the chairman and a majority of the members shall be dental practitioners, for the purpose of carrying out such duties as may be prescribed with respect to the approval of estimates of dental treatment and appliances ;

(*e*) for providing, in relation to the Dental Estimates Board, for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Fifth Schedule to this Act, and also for the remuneration of members of the Board.

This section provides for a list of dental practitioners who are willing to provide general dental services to be kept by every Executive Council. The section, however, provides but a framework, which is to be filled in by regulations. It is to be observed, however, that any dental practitioner is to have the right to be included in any list, and as many lists as he likes, not only if he applies before the appointed day, but at any time. There are no restrictions on sale and purchase of dental practices analogous to those of s. 35 in respect of medical practices, and consequently no compensation provisions analogous to s. 36. As to disqualification, see s. 42.

It will be noted that the constitution, etc., of the Dental Estimates Board is left to be settled by the Minister by regulation, but since the Minister is expressly authorised to provide by regulation in respect thereof for those matters dealt with in the supplementary provisions of the Fifth Schedule in respect of Executive Councils, it follows that the Minister may, *inter alia*, by regulation declare the board a body corporate with a common seal and power to hold land without licence in mortmain.

Sect. 45 should be read together with s. 40 (2) (*c*).

On finance of Dental Estimates Board, see s. 54 (4).

Provision for remuneration of members of the Dental Estimates Board and for payments in respect of travelling and subsistence allowances is made in the National Health Service (Travelling Allowances, etc.) Regulations, 1947 (S. R. & O. 1947, No. 1330), regs. 4 and 5 and Parts II and III of the Schedule thereto.

Complaints against dental practitioners are dealt with by the

Tribunal under s. 42, but presumably might first be made to the Executive Council, which has the right of making representations to the Tribunal. But if a person claiming or receiving service has a dispute with an Executive Council, such dispute goes to the Minister under s. 47.

For matters to be dealt with by regulation, reference should be made to the National Health Service (General Dental Services) Regulations, 1948.

Supplementary Ophthalmic Services

41.—(1) Without prejudice to the duty of the Minister under Part II of this Act to provide, as part of the hospital and specialist services, services in connection with the diagnosis and treatment of disease or defect of the eyes and the supply of optical appliances, it shall be the duty of every Executive Council to make as respects their area, in accordance with regulations, arrangements with medical practitioners having the prescribed qualifications, ophthalmic opticians and dispensing opticians for securing, as from the appointed day, the testing of sight by such medical practitioners and ophthalmic opticians and the supply by ophthalmic opticians and dispensing opticians of optical appliances, and the services provided in accordance with the arrangements are in this Act referred to as "supplementary ophthalmic services."

(2) The functions of an Executive Council under this section shall, to such extent as may be prescribed, be exercised on behalf of the Council by a committee to be called the "Ophthalmic Services Committee" constituted for the area of the Council in accordance with regulations so as to include members appointed by the Executive Council and by medical practitioners having the prescribed qualifications, ophthalmic opticians and dispensing opticians, respectively, and the regulations may make provision in relation to the Ophthalmic Services Committee, for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Fifth Schedule to this Act.

This sub-section does not apply to the Isles of Scilly.[1]

(3) Regulations may make provision as to the arrangements to be made under this section, and shall include provision—

[1] Isles of Scilly (National Health Service) Order, 1948, S. I. 1948, No. 167.

(*a*) for the preparation and publication of lists of medical practitioners, ophthalmic opticians and dispensing opticians, respectively, who undertake to provide supplementary ophthalmic services ;

(*b*) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, on any medical practitioner having the prescribed qualifications, ophthalmic optician or dispensing optician who wishes to be included in the appropriate list, to be so included ;

(*c*) for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his sight is to be tested or from whom any prescription for the supply of optical appliances is to be obtained and the ophthalmic or dispensing optician who is to supply the appliances.

(4) Where the Minister is satisfied that adequate ophthalmic services are available in the area of any Executive Council through the hospital and specialist services provided under Part II of this Act, he may by order direct that this section shall cease to apply to that area, and this section shall thereupon cease to apply as from a date specified in the order ; and any such order may contain such consequential and incidental provisions as the Minister considers necessary or expedient.

The provision of supplementary ophthalmic services under s. 41 is in the nature of a stopgap measure, as will be appreciated from sub-ss. (1) and (4), the latter expressly giving the Minister power to direct that the section shall no longer apply to any area where adequate ophthalmic services are available as part of the hospital and specialist services.

The Minister has power to provide by regulations under and subject to the provisions of sub-s. (2) for the constitution of " Ophthalmic Services Committees " and for those matters dealt with in the supplementary provisions of the Fifth Schedule in relation to Executive Councils.

The right of inclusion in the " appropriate list " conferred by sub-s. (3) on medical practitioners having the prescribed qualifications and on ophthalmic opticians and dispensing opticians appears to mean in the list appropriate for the kind of person concerned, *i.e.*, medical practitioners in the list of medical practitioners, and not in the list of ophthalmic opticians, and so forth. If this interpretation

is correct, it seems that any person suitably qualified will, subject to application, have the right of inclusion in the appropriate list in as many areas as he thinks fit, and not just in the list for the area in which he is practising (which would be the alternative meaning of " appropriate list ").

As to constitution of Ophthalmic Services Committees and rules of procedure, see National Health Service (Executive Councils) Regulations, 1947 (S. R. & O. 1947, No. 889), Part. III (regs. 17–24). Finance of this Committee is dealt with in s. 54.

The prescribed qualifications for medical practitioners for inclusion on the list for ophthalmic services as well as for ophthalmic opticians and dispensing opticians so participating (*vide* s. 79) are set out in the National Health Service (Executive Councils) Regulations, 1947 (S. R. & O. 1947, No. 889), reg. 19.

As to complaints and disqualification, see s. 42, but any dispute between a person claiming or receiving services and an Executive Council falls under s. 47.

Sect. 45 should be read in conjunction with s. 41 (3) (*c*).

For meaning of " regulations," " medical practitioners," " prescribed," " ophthalmic opticians," " dispensing opticians " and " appointed day," see s. 79.

Supplementary Provisions

Disqualification of Practitioners

42.—(1) There shall be constituted in accordance with the provisions of the Seventh Schedule to this Act, a tribunal, in this section referred to as " the Tribunal," for the purpose of inquiring into cases where representations are made in the prescribed manner to the Tribunal by an Executive Council or any other person that the continued inclusion of any person in any list prepared under this Part of this Act—

(*a*) of medical practitioners undertaking to provide general medical services ;

(*b*) of persons undertaking to provide pharmaceutical services ;

(*c*) of dental practitioners undertaking to provide general dental services ;

(*d*) of medical practitioners undertaking to provide supplementary ophthalmic services ;

(*e*) of ophthalmic opticians undertaking to provide supplementary ophthalmic services ; or

(*f*) of dispensing opticians undertaking to provide supplementary ophthalmic services ;

would be prejudicial to the efficiency of the services in question.

(2) The supplementary provisions contained in the said Seventh Schedule shall apply in relation to the Tribunal.

(3) The Tribunal, on receiving representations from an Executive Council shall, and in any other case may, inquire into the case and, if they are of opinion that the continued inclusion of the said person in any list to which the representations relate would be prejudicial to the efficiency of the said services, shall direct that his name be removed from that list, and may also, if they think fit, direct that his name be removed from, or not be included in, any corresponding list kept by any other Executive Council under this Part of this Act.

(4) An appeal shall lie to the Minister from any direction of the Tribunal under the last foregoing subsection, and the Minister may confirm or revoke that direction.

(5) Where the Tribunal direct that the name of any person be removed from or not included in any list or lists, the Executive Council or Councils concerned shall—

(*a*) if no appeal is brought, at the end of the period for bringing an appeal ; or

(*b*) if an appeal is brought and the decision of the Tribunal is confirmed by the Minister, on receiving notice of the Minister's decision,

remove the name of the person concerned from the list or lists in question, and, until such time as the Tribunal or the Minister direct to the contrary, that person shall be disqualified for inclusion in any list to which the direction relates.

(6) If under any provisions in force in Scotland corresponding to the provisions of this Part of this Act a person is for the time being disqualified for inclusion in all lists prepared under those provisions of persons undertaking to provide services of one or more of the kinds specified in subsection (1) of this section, that person shall, so long as that disqualification is in force, be disqualified for inclusion in any list prepared under this Part of this Act of persons undertaking to provide services of that kind or of those kinds, and the name of that person shall be removed from every such list in which his name is included.

(7) Regulations shall make provision—

(*a*) for prescribing the procedure for the holding of inquiries by the Tribunal and for the making and determining of appeals to the Minister under this section and, in particular, for securing that any person who is the subject of an inquiry by the Tribunal under this section shall have an opportunity

(i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal and, in the case of an appeal, before a person appointed by the Minister; and

(ii) of being heard by the Tribunal or the person so appointed and of calling witnesses and producing other evidence on his behalf;

and that the hearing, whether by the Tribunal or the person appointed as aforesaid, shall be in public if the person who is the subject of the inquiry so requests;

(*b*) for conferring on the Tribunal and on any person so appointed by the Minister such powers as the Minister considers necessary, and for that purpose to apply, with any necessary modifications, any of the provisions of section two hundred and ninety of the Local Government Act, 1933[1]; and

(*c*) for the publication of the decisions of the Tribunal and the Minister under this section and of the imposition and removal of any disqualification imposed by virtue of the last foregoing subsection.

(8) Where, before the appointed day—

(*a*) the name of any person has after inquiry been removed from any list kept by an insurance committee under the National Health Insurance Act, 1936,[2] or any enactment repealed by that Act, of medical practitioners;

(*b*) an application by any person for inclusion in a list of persons supplying drugs, medicines and appliances under the National Health Insurance Act, 1936, or any enactment repealed by that Act, has after inquiry been refused, or the name of any person has after inquiry been removed from any such list;

[1] 23 & 24 Geo. 5, c. 51. [2] 26 Geo. 5 & 1 Edw. 8, c. 32.

(*c*) any dental practitioner has been declared under regulations made under the National Health Insurance Act, 1936, or any enactment repealed by that Act, to be permanently unsuitable for service in connection with the provision of dental benefit within the meaning of those regulations ;

(*d*) an application by any person for inclusion in a list of persons recognised for the purpose of the provision of optical appliances under the National Health Insurance (Additional Benefits) Regulations, 1930, has been rejected, or the name of any such person has after inquiry been removed from any such list ;

and the name of that person has not before the appointed day been included in or restored to the list or, in the case of a dental practitioner, the declaration of unsuitability has not before the appointed day been withdrawn, that person shall, until such time as the Tribunal or the Minister directs to the contrary, be disqualified for inclusion in the appropriate list of those referred to in subsection (1) of this section.

For the constitution of the Tribunal, see Seventh Schedule. Its function, as defined in sub-s. (1), is to inquire into cases where representations are made to it that the continued inclusion of any person in any list of medical or dental practitioners, opticians or pharmacists kept under Part IV of the Act would be prejudicial to the efficiency of the services in question. If the complaint is made by an Executive Council the Tribunal must inquire into it, and in any other case may inquire, and may then direct removal of the name from the one list in respect of which the complaint was made or from any corresponding list kept by any other Executive Council as well and may direct that the person's name be not included in any such list.

It must be appreciated that any such inquiry is directed to the efficiency of the service, and is not to be confused, in the case of a medical practitioner, with an inquiry by the General Medical Council, which, in respect of infamous conduct in a professional respect and certain other matters, may result in removal from the register, which would automatically disqualify the practitioner concerned from continued inclusion in a "list" kept under the Act. Substantially similar conditions obtain as regards dentists, pharmacists and opticians, though only in respect of dentists are the rules of a severity comparable with those relating to medical practitioners.

Appeal by a person removed from a list or disqualified from inclusion therein (but not by the complainant in the case of unsuc-

cessful representations) lies to the Minister, which appeal is to be heard by a person appointed by the Minister and otherwise in accordance with regulations made under s. 42 (7), under which sub-section rules are also to be made in respect of hearings by the Tribunal.

Sub-s. (7) (*b*), which authorises the making of regulations for conferring on the Tribunal and on a person appointed to hear appeals to the Minister such powers as the Minister may consider necessary, by its reference to his power to apply with the necessary modifications, the provisions of s. 290 of the Local Government Act, 1933, implies power *ejusdem generis*, and probably not more extensive than conferred by that section of the earlier Act.

On finance of Tribunal, refer to s. 54.

By s. 42 (8) persons removed or excluded from any list of doctors, dentists, persons supplying drugs, medicines and appliances or optical appliances under the National Health Insurance Acts will not be eligible for inclusion on similar lists kept under this Act until such time as the Tribunal or the Minister otherwise directs.

For matters to be dealt with by regulation see the National Health Service (Service Committees and Tribunal) Regulations, 1948.

For meaning of " prescribed," see s. 79.

Powers of Minister where Services are Inadequate

43. If the Minister is satisfied, after such inquiry as he may think fit, as respects any area or part of an area of an Executive Council that the persons included in any list prepared under this Part of this Act—

(*a*) of medical practitioners undertaking to provide general medical services ;

(*b*) of persons undertaking to provide pharmaceutical services ; or

(*c*) of dental practitioners undertaking to provide general dental services,

are not such as to secure the adequate provision of the services in question in that area or part, or that for any other reason any considerable number of persons in any such area or part are not receiving satisfactory services under the arrangements in force under this Part of this Act, he may authorise the Executive Council to make such other arrangements as he may approve, or may himself make other arrangements, and may dispense with any of the requirements of regulations made under this Part of this Act so far as appears to him to be

necessary to meet exceptional circumstances and enable such arrangements to be made.

Before the Minister acts under this section he must make *some* inquiry, but of what kind and extent is entirely at his discretion. Further, he must be satisfied either that there are not enough doctors, pharmacists or dentists, or for some other reason services are unsatisfactory. Then, and then only, may he exercise the extremely wide powers conferred.

Recovery of Charges in Respect of Certain Appliances and Dental Treatment

44.—(1) Regulations may provide for the making and recovery by persons providing general dental services or supplementary ophthalmic services of such charges as may be prescribed—

(*a*) in respect of the supply, as part of those services, of any dental or optical appliance which is, at the request of the person supplied, of a more expensive type than the prescribed type or in respect of the replacement or repair of any such appliance ; or

(*b*) in respect of the replacement or repair of any dental or optical appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement or repair is necessitated by lack of care on the part of the person supplied.

(2) Regulations may provide that, in the case of such special dental treatment as may be prescribed, being treatment provided as part of the general dental services, such charges as may be prescribed may be made and recovered by the person providing the services.

It appears *primâ facie* that any dental treatment whatever may be brought within sub-s. (2) if the Minister by regulation calls it special treatment. Nevertheless, it is fairly clear that Parliament intended the sub-section to apply only to special in the sense of unnecessarily expensive treatment as is borne out by regs. 21 and 23 of the National Health Service (General Dental Services) Regulations, 1948. Reg. 22 provides for charges for repair and replacement due to lack of care.

For meaning of " regulations " and " prescribed," see s. 79.

Exercise of Choice of Practitioner in Certain Cases

45. Regulations may provide that, where a right to choose the person by whom services are to be provided under this Part of this Act is conferred by or under any provision of this Part of this Act, that right shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.

This section modifies in such cases as may be covered by regulations the rights conferred by s. 33 (2) (*b*), s. 40 (2) (*c*) and s. 41 (3) (*c*) as to choice of general medical practitioner, dental practitioner and medical practitioner or ophthalmic optician providing ophthalmic services respectively.

Reg. 31 of the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, provides for the mother (and failing her father) to choose for person under 16 and for a relative or person having care of any other person incapable of choosing to do so for him: reg. 9 of the National Health Service (General Dental Services) Regulations, 1948, is to the same effect.

Arrangements for Use of Health Centres by Practitioners

46. Where a health centre provides facilities for general medical services, general dental services or pharmaceutical services, the centre shall, subject to regulations, be made available for those services on such terms as may be agreed between the Executive Council and the local health authority providing the centre or, in default of agreement between them, as may be determined by the Minister, and the Executive Council may make such charges for the use of the centre by medical practitioners or dental practitioners providing such services as aforesaid as the Council think sufficient for the purpose of defraying the payments made by them to the local health authority, and may recover those charges from the medical practitioners and dental practitioners using the centre.

This section links up with s. 21 as regards provision of these facilities at health centres. The principle is that local health authorities are not to employ medical and dental practitioners, neither are they to be obliged to provide practice facilities at their own cost, though there is apparently no obligation on a local health authority to charge the full cost of facilities provided.

As to disputes between Executive Councils and local health authorities as to the conduct of a health centre, see s. 47.

For meaning of "regulations," see s. 79.

Decision of Disputes

47. Any dispute arising under this Part of this Act or any regulation made thereunder between an Executive Council and a person receiving, or claiming that he is entitled to receive, any services under this Part of this Act, or between an Executive Council and a local health authority as to the conduct of a health centre, shall be referred to and decided by the Minister.

This section deals only with disputes between (i) an Executive Council and a person receiving or claiming services, *i.e.*, a patient, or (ii) an Executive Council and a local health authority *as to the conduct of a health centre.*

For meaning of " regulation," see s. 79.

Provision of Courses for Persons Providing Services

48. For the purpose of affording opportunities for persons providing any services under this Part of this Act to keep themselves informed of the latest developments in professional knowledge, the Minister may enter into arrangements with universities, medical schools and dental schools, and any other persons for the provision of courses which the persons providing such services as aforesaid may attend, and may, with the approval of the Treasury, make payments towards the cost of the provision of such courses and the expenses of persons attending such courses.

The power given refers only to persons providing services under Part IV of the Act, including general medical practitioners, dental practitioners, pharmacists and medical practitioners and opticians providing supplementary ophthalmic services.

PART V

SPECIAL PROVISIONS AS TO MENTAL HEALTH SERVICES

Transfer to Minister of Certain Functions of Board of Control

49.—(1) The functions of the Board of Control under the enactments specified in the Eighth Schedule to this Act, being administrative functions relating to—

(*a*) the licensing of houses, the registration of hospitals

and the approval of nursing homes and other places for the reception of persons suffering from mental illness as private patients ;

(*b*) the certification of institutions and houses and the approval of homes for the reception of mental defectives ;

(*c*) the superintendence of the administration by local health authorities of their powers and duties under the Mental Deficiency Acts, 1913 to 1938 ;

(*d*) certain other administrative matters arising under the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938,

shall be transferred to the Minister.

(2) The officers of the Board of Control, other than the Commissioners, the secretary and inspectors, shall be transferred to the Ministry of Health, and sections twenty-three and twenty-four of the Mental Deficiency Act, 1913[1] (which provide for the appointment of officers by the Board and as to their disqualification) shall cease to apply to any officers other than the Commissioners, secretary and inspectors.

(3) The services of such officers, other than the Commissioners, secretary and inspectors, as the Board of Control may require for the purpose of the exercise of the functions not transferred to the Minister shall be provided by the Minister.

(4) All property held by the Board of Control, the Minister of Works or the Prison Commissioners for the purposes of any institution for defectives of violent or dangerous propensities established by the Board of Control under section thirty-five of the Mental Deficiency Act, 1913, shall be transferred to and vest in the Minister by virtue of this Act, but any institution designated by the Minister for such defectives shall be under the management of the Board of Control and the provisions of this Act relating to Regional Hospital Boards and Hospital Management Committees shall not apply thereto.

(5) An additional medical Commissioner may be appointed to the Board of Control, and accordingly section eleven of the Mental Treatment Act, 1930[2] (which provides that the Board of Control is to consist of a chairman and not more than four

[1] 3 & 4 Geo. 5, c. 28.

[2] 20 & 21 Geo. 5, c. 23.

Commissioners of which two shall be medical Commissioners) shall have effect subject to the amendments specified in Part I of the Ninth Schedule to this Act.

(6) Section twelve of the Mental Treatment Act, 1930 (which makes provision for the administrative business of the Board) shall cease to have effect.

(7) This section shall come into force on the appointed day.

The general effect of s. 49 (1), read in conjunction with the relevant amendments to the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, made by virtue of s. 50, is to transfer to the Minister all the administrative functions of the Board other than directly in relation to the welfare of the patients, and as regards such kindred matters as notifications of detention, restraint, release and escape. In addition, by virtue of sub-s. (4), the Board of Control is, as at present, to manage institutions for defectives of violent or dangerous propensities.

By the National Health Service (Appointed Day) Order, 1947, this section came into force on 1st July, 1947, thus effecting the transfer to the Minister from the Board of Control of those functions set out in this section and the Eighth Schedule. By the same order, those amendments and repeals referred to in s. 50 (1) and the Ninth Schedule, which were necessary to the above-mentioned transfer of functions, took effect from the same date. (The amendments and repeals referred to are set in italic type in the Ninth Schedule, as printed on pp. 145–160 of this book).

For meaning of " appointed day," see s. 79.

Repeals and Amendments of the Lunacy and Mental Treatment Acts, and the Mental Deficiency Acts

50.—(1) As from the appointed day, the provisions of the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, and the other enactments specified in Part I of the Ninth Schedule to this Act shall be amended to the extent specified in that Part, and the provisions of the said Acts and the other enactments specified in Part II of that Schedule shall be repealed to the extent specified in the third column of that Part, such amendment and repeal being required—

(*a*) in consequence of the provision by the Minister, instead of local authorities, of hospitals for mental patients and institutions for defectives ;

(*b*) for making it unlawful to detain persons of unsound mind and mental defectives in workhouses ;

(*c*) for the purpose of assimilating the procedure for securing the reception into and discharge from mental hospitals of private patients and other patients, respectively, and

(*d*) generally for bringing the provisions of the said Acts into conformity with the provisions of this Act.

(2) Nothing in the aforesaid repeals and amendments or in the provisions of this Act shall affect any order, certificate, licence, registration, approval, regulation or other thing, made, issued, granted or done under any provision of any enactment specified in the Ninth Schedule to this Act, if it was in force immediately before the appointed day and could have been made, issued, granted or done under that provision as amended by this Act or under any corresponding provision of this Act, and any such order, certificate, licence, registration, approval, regulation or other thing shall be deemed to have been duly made, issued, granted or done under that provision as so amended or under that provision of this Act.

(3) Where immediately before the appointed day any person is, by virtue of an order made under subsections (3) and (4) of section twenty-four of the Lunacy Act, 1890,[1] or section nineteen of the Mental Treatment Act, 1930, detained in any workhouse or part of a workhouse within the meaning of the Lunacy Act, 1890, or any hospital or part of a hospital approved for the purposes of section nineteen of the Mental Treatment Act, 1930, which is transferred to the Minister by virtue of this Act and is or forms part of a hospital designated by him as a mental hospital, the said order shall have effect as if it were an order made on the appointed day under section sixteen of the Lunacy Act, 1890, for the detention of that person in that mental hospital.

[(4) *Where immediately before the appointed day any person is, by virtue of an order made under the Lunacy and Mental Treatment Acts,* 1890 *to* 1930, *or the Mental Deficiency Acts,* 1913 *to* 1938, *detained in any workhouse or part of a workhouse within the meaning of the Lunacy Act,* 1890, *which is not transferred to the Minister by virtue of this Act, the order shall, for a period of six months, continue to be an authority for his detention therein, and, while he is so detained, the provisions of the Lunacy*

[1] 53 & 54 Vict., c. 5.

and Mental Treatment Acts, 1890 *to* 1930, *or of the Mental Deficiency Acts,* 1913 *to* 1938, *as the case may be, shall continue to apply to him as if this Act had not passed, and the said order shall also be an authority for his transfer to and detention in any mental hospital or, as the case may be, institution for defectives, vested in the Minister, and shall have effect, in the case of detention in a mental hospital, as if it were an order made on the appointed day under section sixteen of the Lunacy Act,* 1890.] [1]

Sub-ss. (1) (*a*), (*b*), (*c*) and (*d*) explain the general nature of the amendments and repeals in the Acts referred to, but the full details of the amendments and repeals as set out in the Ninth Schedule are too extensive to be set out in full. Most of them, however, are purely consequential, and in a sense purely formal. Some, however, although consequential, are more than formal, as, for example, the abolition of the statutory offices of clerk to the visiting committee and clerk to the hospital, whilst leaving at least some of the duties of such officers to be performed by officers unidentified in the Act, but presumably to be designated by the Minister.[2]

As regards persons of unsound mind and mental defectives detained in workhouses on the appointed day, it is to be noted that if the place where such a person is detained is transferred to the Minister and is designated a mental hospital, the order under which he was detained is operative as though made under this Act (sub-s. (3)), but if the workhouse is not so transferred the order remains valid for a period to be determined in accordance with the provisions of paragraph 7 (2) of the Sixth Schedule of the National Assistance Act, 1948.

Those amendments and repeals referred to in sub-s. (1) and set out in the Ninth Schedule, which were necessary to effect the transfer of functions from the Board of Control to the Minister under s. 49, and which are in italic in the Ninth Schedule, as printed in this book, became effective on 1st July, 1947, by virtue of the National Health Service (Appointed Day) Order, 1947.

[1] Sub-s. (4) is not now to have effect, *vide* National Assistance Act, 1948, Sixth Schedule, paragraph 7 (3). Hospital accommodation for mental patients, mental defectives and others needing hospital facilities may still—until the Minister otherwise determines—be provided to the same extent as hitherto in workhouses not transferred under this Act. See Schedule referred to, where also will be found provision for necessary arrangements between the local authority and the regional hospital board in such circumstances and also in the reverse case, *i.e.*, where workhouse accommodation or other non-hospital accommodation is reserved to a local authority in a transferred institution.

[2] See now as to these and other matters Mental Treatment Rules, 1948, which replace the Mental Treatment Rules, 1930. It may also be noted that the Mental Deficiency Regulations, 1948, replace the Mental Deficiency Regulations, 1935, and also contain modifications largely consequential on the provisions of this Act.

The National Health Service (Mental Treatment) Amendment Rules, 1947 (S. R. & O. 1947, No. 1360), and the National Health Service (Mental Deficiency) Amendment Regulations, 1947 (S. R. & O. 1947, No. 1359), should also be noted as making consequential amendments to the Mental Treatment Rules, 1930, and the Mental Deficiency Regulations, 1935, respectively, for the interim period between the 1st July, 1947, and 5th July, 1948, when the Mental Treatment Rules, 1948, and the Mental Deficiency Regulations, 1948, become operative.

For meaning of " appointed day " and " hospital," see s. 79.

Proposals for Carrying Out of Duties by Local Health Authorities under Lunacy and Mental Treatment Acts and Mental Deficiency Acts

51.—(1) Section twenty of this Act (which requires local health authorities to submit proposals to the Minister for carrying out their duties under certain provisions of Part III of this Act and to carry out those duties in accordance with the proposals) shall apply with respect to the duties of local health authorities under the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938.

(2) Where a local health authority makes arrangements with any voluntary organisation for the performance of any services in connection with the duties of the local health authority under the Mental Deficiency Acts, 1913 to 1938, the local health authority may, with the approval of the Minister, contribute to that voluntary organisation.

PART VI

GENERAL

Financial Provisions

Expenses and Receipts of the Minister

52.—(1) Any expenses incurred by the Minister in the exercise of his functions under this Act, the Lunacy and Mental Treatment Acts, 1890 to 1930, or the Mental Deficiency Acts, 1913 to 1938, shall be defrayed out of moneys provided by Parliament.

(2) All sums received by the Minister under this Act, except

sums required to be transferred to the Hospital Endowments Fund, shall be paid into the Exchequer.

As to transfers to Hospital Endowments Fund, see ss. 7, 11 (9) and 56.

Grants to Local Health Authorities

53.—(1) In respect of the period beginning with the appointed day and ending with the thirty-first day of March next following and each subsequent period of twelve months, there shall be paid out of moneys provided by Parliament to every local health authority a grant in respect of the expenditure, estimated in the prescribed manner, incurred by the authority in carrying out their functions as a local health authority, whether under this Act or any other enactment, and the grant shall be payable in accordance with regulations made by the Minister with the approval of the Treasury :

Provided that the total amount of the grant payable to any local health authority in respect of any such period shall not exceed three-quarters of the total expenditure estimated as aforesaid of that authority, and shall not be less than three-eighths of that expenditure.

(2) Where any functions of two or more local health authorities are being exercised by a joint board, grants shall be paid to the said authorities under the last foregoing subsection in respect of their expenditure in defraying expenses of the board in exercising those functions, as if that expenditure were incurred by them in exercising functions as local health authorities.

(3) For the purposes of section one hundred and four of the Local Government Act, 1929[1] (which authorises the reduction of grants payable under Part VI of that Act to a council which fails to achieve and maintain an efficient service) grants payable under this section shall be deemed to be payable under the said Part VI.

(4) The council of every county and county borough, the Common Council of the City of London and the council of every metropolitan borough shall pay to the Minister in respect of the period beginning with the appointed day and ending with the thirty-first day of March next following, and each

[1] 19 & 20 Geo. 5, c. 17.

subsequent period of twelve months during the third fixed grant period within the meaning of the Local Government Act, 1929, a sum equal to the loss on account of the grants mentioned in paragraph 2 of the Second Schedule to the Local Government Act, 1929, discontinued by virtue of section eighty-five of that Act, as determined in accordance with Part II of the Fourth Schedule to that Act, less such part of that loss as is attributable to grants for the welfare of the blind :

Provided that—

(*a*) where the said loss on account of the said grants has, in the case of the council of any county or county borough, the Common Council of the City of London or the council of any metropolitan borough, been increased or reduced by an amount certified by the Minister under regulations made under paragraph (*b*) of subsection (1) of section one hundred and eight of the Local Government Act, 1929, the payment to be made by the council under this subsection shall be increased or reduced by such part of the amount so certified as is attributable to the said grants other than grants for the welfare of the blind ;

(*b*) in the case of a county or county borough or metropolitan borough constituted since the thirty-first day of March, nineteen hundred and twenty-nine, the amount to be paid by the council thereof under this section shall be the amount certified by the Minister under the said regulations as the loss of that county of county borough or metropolitan borough on account of the said grants, less such part of that amount as is attributable to grants for the welfare of the blind ;

(*c*) if the said third fixed grant period ends during the period beginning with the appointed day and ending with the thirty-first day of March next following or during any subsequent period of twelve months, the payments to be made by councils under this subsection in respect of that period shall bear the same proportion to the sums that would be payable in respect of a complete period of twelve months as that period bears to a complete period of twelve months.

As to local health authorities and their powers and duties, see Part III of the Act (ss. 19–30).

For meaning of "appointed day," "prescribed" and "regulations," see s. 79.

Payments to Regional Hospital Boards, Boards of Governors, Executive Councils and Other Bodies

54.—(1) There shall be paid out of moneys provided by Parliament to—

(*a*) every Regional Hospital Board such sums as may be necessary to defray the expenditure of the Board (including expenditure incurred by a Hospital Management Committee in exercising functions on behalf of the Board), being expenditure approved by the Minister in the prescribed manner;

(*b*) every Board of Governors of a teaching hospital such sums as may be necessary to defray the expenditure of the Board being expenditure approved as aforesaid.

(2) All expenditure of a Hospital Management Committee approved as aforesaid shall be defrayed by the Regional Hospital Board for the area in which the hospital or group of hospitals in question is situated.

(3) There shall be paid out of moneys provided by Parliament to every Executive Council such sums as the Minister may with the approval of the Treasury determine to have been incurred by the Council, or by an Ophthalmic Services Committee on behalf of the Council, for the purpose of discharging their functions under this Act.

(4) There shall be paid out of moneys provided by Parliament such expenses incurred by the Central Council, any standing advisory committee constituted under section two of this Act, the Medical Practices Committee, the Tribunal constituted under section forty-two of this Act and the Dental Estimates Board as may be determined by the Minister with the approval of the Treasury.

(5) Any payments made under regulations in respect of any loss of remunerative time or any travelling or subsistence expenses to the members of any body constituted under this Act, and any remuneration so payable to members of the

Medical Practices Committee, the Tribunal constituted under section forty-two of this Act or the Dental Estimates Board shall be defrayed out of moneys provided by Parliament.

(6) Payments made under this section shall be made in accordance with regulations made by the Minister and approved by the Treasury, and shall be made at such times and in such manner as the Treasury may direct, and subject to such conditions as to records, certificates or otherwise the Minister may with the approval of the Treasury determine.

As to Regional Hospital Boards and Boards of Governors, see ss. 11–13, and, generally, Part II of the Act. As to expenditure of Hospital Management Committees, see sub-s. (2) below.

As to Hospital Management Committee, see ss. 11–13, and, generally, Part II of the Act.

As to Executive Councils, see s. 31, and as to general medical and dental services, see the whole of Part IV, and as to Ophthalmic Services Committee, see s. 41 (2), and as to supplementary ophthalmic services to be provided under Part IV, the remainder of s. 41.

As to Central Council and Standing Advisory Committees, see s. 2 ; Medical Practices Committee, s. 34 (2)–(9) and s. 37 ; the Tribunal, s. 42 ; and Dental Estimates Board, s. 40 (2) (*d*) and (*e*).

The cases in which regulations may make provision for loss of remunerative time are dealt with in the several schedules relating to the constitution, powers, etc., of the various bodies concerned. Such payments will be lawful only if authorised by regulations and made strictly in accordance therewith. See also the National Health Service (Travelling Allowances, etc.) Regulations, 1947, which covers payment of travelling expenses, subsistence allowances and also loss of remunerative time and, where authorised by the Act, remuneration.

The accounting control of all payments made in accordance with this section is to be found in sub-s. (6), read in conjunction with s. 55.

For meaning of " hospital," " prescribed," " regulations " and " teaching hospital," see s. 79.

Accounts of Councils of County Boroughs, Regional Hospital Boards, Boards of Governors and Executive Councils

55.—(1) Every local health authority being the council of a county borough shall keep accounts of the sums received and expended by them in the exercise of their functions as such an authority, whether under this Act or under any other enactment, and those accounts shall be made up and audited

in like manner as the accounts of a county council and shall be kept separately from their other accounts ; and the enactments relating to the audit of accounts by a district auditor and to the matters incidental to such audit and consequential thereon shall have effect in relation to the accounts which the council of a county borough are required to keep under this section as they have effect in relation to the accounts of a county council.

(2) Every Regional Hospital Board, Board of Governors of a teaching hospital, Hospital Management Committee and Executive Council shall keep accounts in such form as the Minister may with the approval of the Treasury prescribe, and those accounts shall be audited by auditors appointed by the Minister, and the Comptroller and Auditor General may examine all such accounts and any records relating thereto and any report of the auditor thereon.

(3) Every such Board, Committee and Council shall prepare and transmit to the Minister in respect of each financial year annual accounts in such form as the Minister may with the approval of the Treasury prescribe.

(4) The Minister shall prepare in respect of each financial year, in such form as the Treasury may direct, summarised accounts of such Boards, Committees and Councils, and shall transmit them on or before the thirtieth day of November in each year to the Comptroller and Auditor General who shall examine and certify them and lay copies of them together with his report thereon before both Houses of Parliament.

Council in sub-ss. (3) and (4) refers to Executive Councils, and not to county councils and councils of county boroughs which are local health authorities, these being dealt with under sub-s. (1).

Accounts and Investments of Hospital Endowments Fund

56.—(1) The Minister shall prepare in respect of each financial year, in such form as the Treasury may direct, accounts of all moneys received into or paid out of the Hospital Endowments Fund and of any other assets transferred into or out of that Fund, and the Comptroller and Auditor General shall examine and certify such accounts and lay copies of them together with his report thereon before both Houses of Parliament.

(2) Any moneys forming part of the Hospital Endowments Fund may from time to time be paid over to the National Debt Commissioners, and by them invested in any securities which are for the time being authorised by Parliament as investments for savings banks funds.

Administrative Provisions

Default Powers of Minister

57.—(1) Where the Minister is of opinion, on complaint or otherwise, that any Regional Hospital Board, Board of Governors of a teaching hospital, Hospital Management Committee, Executive Council, Ophthalmic Services Committee or local health authority, or the Medical Practices Committee or the Dental Estimates Board have failed to carry out any functions conferred or imposed on them by or under this Act, or have in carrying out those functions failed to comply with any regulations or directions relating thereto, he may after such inquiry as he may think fit make an order declaring them to be in default.

(2) Except where the body in default is a local health authority, the members of the body shall forthwith vacate their office and the order shall provide for the appointment, in accordance with the provisions of this Act, of new members of the body, and may contain such provisions as seem to the Minister expedient for authorising any person to act in the place of the body in question pending the appointment of the new members.

(3) If the body in default is a local health authority, the order shall direct them, for the purpose of remedying the default, to discharge such of their functions, in such manner and within such time or times, as may be specified in the order, and if the authority fail to comply with any direction given under this subsection, within the time limited for compliance therewith, the Minister, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the authority as he thinks fit.

(4) Any expenses certified by the Minister to have been incurred by him in discharging functions transferred to h_{im}

under this section from a local health authority shall on demand be paid to him by that authority and shall be recoverable by him from them as a debt due to the Crown, and the authority or (in the case of a joint board) any constituent local authority thereof shall have the like power of raising the money required as they have of raising money for paying expenses incurred directly by them, and the payment of any such expenses incurred by the Minister as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which the authority may borrow money in accordance with the statutory provisions relating to borrowing by that authority.

(5) An order made under this section may contain such supplementary and incidental provisions as appear to the Minister to be necessary or expedient, including provision for the transfer to the Minister of property and liabilities of the body in default, and where any such order is varied or revoked by a subsequent order, the revoking order or a subsequent order may make provision for the transfer to the body in default of any property or liabilities acquired or incurred by the Minister in discharging any of the functions transferred to him.

Although by sub-s. (2) where a default order made under sub-s. (1) results in the members of the body concerned vacating office it is enacted that the order *shall* provide for the appointment of new members, in accordance with the provisions of the Act, provision being also expressly made for the carrying on of the functions of the body concerned pending new appointments, it is clear that the Minister is not obliged to have the new members ready to take office the moment the order is made. Moreover, sub-s. (5) contemplates, where necessary, the transfer of property and liabilities to the Minister.

The method of dealing with a defaulting local health authority, the members of which are not removed by an order under sub-s. (1), is under sub-ss. (3)–(5).

Orders made under this section do not need to be laid before Parliament.

For meaning of "prescribe," "regulations" and "teaching hospital," see s. 79.

Acquisition of Land

58.—(1) The Minister may acquire, either by agreement

or compulsorily, any land required by him for the purposes of this Act, and, without prejudice to the generality of this subsection, land may be so acquired for the purpose of providing residential accommodation for persons employed at any hospital vested in the Minister.

(2) A local health authority may be authorised to purchase land compulsorily for the purposes of this Act by means of an order made by the authority and confirmed by the Minister.

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946,[1] shall apply to the compulsory purchase of land by the Minister or a local health authority under this section, and accordingly shall have effect—

(*a*) as if subsection (1) of section one thereof (which refers to the compulsory purchase of land by local authorities under public general Acts in force immediately before the commencement of that Act and by the Minister of Transport under certain enactments) included a reference to any compulsory purchase of land by the Minister under this section ; and

(*b*) as if this section had been in force immediately before the commencement of the said Act :

Provided that section two of the said Act (which confers temporary powers for speedy acquisition of land in urgent cases) shall not apply to any compulsory purchase of land under this section.

(4) Section one hundred and seventy-six of the Local Government Act, 1933 (which applies the Lands Clauses Acts to acquisition of land by agreement) shall apply to the acquisition of land by the Minister under this section in like manner as it applies to such acquisition by a local authority under Part VII of the said Act.

It is under this section, together with s. 10, that the Minister can acquire at any time a hospital not being a voluntary or local authority hospital transferred to him on the appointed day by virtue of s. 6 (*e.g.*, a hospital carried on for profit). He can also acquire any voluntary hospital under this section after the appointed day, being a hospital he had elected not to take over under s. 6, or a hospital established since the appointed day. But in the case of a voluntary hospital acquired after the appointed day, as also in the

[1] 9 & 10 Geo. 6, c. 49.

case of a hospital carried on for profit acquired at any time, compensation would be payable in accordance with ss. 10 and 58. But in the case of a voluntary hospital, how payment received by way of compensation could be applied would be for decision under the general law relating to charitable trusts.

It is to be observed that, although Regional Hospital Boards, Boards of Governors of teaching hospitals and Hospital Management Committees may hold land without licence in mortmain (Third Schedule, Part IV (1)), and have the further powers conferred by s. 59, they are not given power of compulsory purchase under s. 58, this because the land requisite for hospital purposes under the Act is to be vested in the Minister, although the hospitals are to be administered on his behalf by the bodies named. Hence, if any such body needed further land for essential purposes, it should apply to the Minister, who, if necessary, would act under s. 58.

Power of Regional Hospital Boards, Boards of Governors and Hospital Management Committees to Accept Gifts

59.—(1) A Regional Hospital Board and the Board of Governors of any teaching hospital and a Hospital Management Committee shall have power to accept, hold and administer any property upon trust for purposes relating to hospital services or to the functions of the Board or Committee under Part II of this Act with respect to research.

(2) Part II of the Mortmain and Charitable Uses Act, 1888,[1] and the Mortmain and Charitable Uses Act, 1891[2] (which impose restrictions upon assurances of land and personal estate to charitable uses) shall not have effect with respect to any assurance (within the meaning of section ten of the said Act of 1888) to any such Board or Committee of land or of personal estate to be laid out in the purchase of land.

See also Fourth Schedule, Part IV (1) and notes to ss. 11 and 58.

The effect of sub-s. (1) is to authorise the hospital authorities to become trustees of property received by way of gift for the purposes there indicated, nor is there anything in the section to prohibit the acceptance of conditional gifts—always providing the condition is not contrary to law. It is important both to ascertain the limits of conditions to gifts (whether the rule against perpetuities applies) and also to reach a decision whether the gift might be subject to the jurisdiction of the Charity Commissioners, to decide whether the purposes referred to in this section are charitable. That they

[1] 51 & 52 Vict., c. 42. [2] 54 & 55 Vict., c. 73.

are is to be inferred from the provisions of s. 59 (2), which is supported by the terms of s. 60, but neither of these can be regarded as direct or conclusive authority on the point. It is suggested, however, that a trust relating to the relief of the sick is a valid charitable trust under the fourth head of Lord Macnaghten's analysis in *Income Tax Commissioners* v. *Pemzel*,[1] viz., *trusts for other purposes beneficial to the community*, this on the authority of *In re Hillier*, *Dauncey* v. *Finch and Att.-Gen.*[2] Research may be regarded either as falling under the head of a trust for education or as relating to the relief of the sick or partly under one and partly under the other, and, therefore, equally charitable.[3]

Assuming such objects to be charitable, it follows that gifts may thus be offered and accepted subject to any condition valid in the case of a charity, *e.g.*, on condition that the income only is spent and that the capital remains intact. It also follows that if a gift constitutes an endowment within the meaning of the Charitable Trusts Acts, 1853–1925 the trust becomes subject to the jurisdiction of the Charity Commissioners to the extent laid down in those Acts.[4] Moreover, the hospital authority may in relation to any assets not compulsorily within the jurisdiction of the Charity Commissioners voluntarily submit wholly or partially to their jurisdiction in order to obtain the benefits of the Acts.[5]

Although by virtue of paragraph (1) of Part IV of the Third Schedule of the present Act, the hospital authorities referred to in this section are all corporate bodies with power to hold land without licence in mortmain, it is nowhere provided that as trustees they are relieved of the obligation under the Trustee Act, 1925, and subject always to the exceptions authorised by that Act or by the instrument creating the trust may invest only in trustee securities. Taking into account the effect of s. 59 (2) and paragraph (1) of Part IV of the Third Schedule, it is suggested that it will clearly be open to hospital authorities to lay out not only unconditional gifts, but also endowments (in the sense of the word as used in the Charitable Trusts Acts, 1853–1925) in the purchase of land for use for purposes of the trust, although unless specifically authorised by the trust instrument, purchase of land for investment would ordinarily be improper. But the purchase of land for hospital or research purposes beyond the services the Minister has accepted the obligation to provide out of moneys provided by Parliament would necessarily place on the hospital authority the responsibility of finding funds for maintenance either out of available assets under s. 59 or under s. 7 (2) or the proviso to s. 7 (4), as the case might be.

[1] [1891] A. C. 583.

[2] [1944] 1 A. E. R. 480.

[3] For full discussion of "Charitable Trusts" refer to Tudor on "Charities," 5th Ed., and Lewin on "Trusts," 14th Ed., with cumulative supplement.

[4] As to which see Tudor on "Charities," 5th Ed., and Speller's "Law Relating to Hospitals."

[5] Charitable Trusts Act, 1869, s. 14.

In the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948, reg. 4, outlining the functions of regional boards has been added a proviso that " Nothing in these regulations shall authorise a regional hospital board to acquire land for the purpose of providing hospital and specialist services," a similar proviso being attached to reg. 7 as to boards of governors of teaching hospitals. Whilst these are not direct prohibitions, they indicate clearly that the Minister would not readily accept an interpretation of the Act which left to the hospital authorities discretion to acquire land for hospital purposes.

As regards extent of liability of hospital authorities and their members for breaches of trust in respect of endowments and charitable gifts, reference should be made to s. 72 and note thereto.

Power of Trustees to Make Payments to Regional Hospital Boards and Boards of Governors

60.—(1) Where property, other than property transferred to the Minister or to the Board of Governors of a teaching hospital or to a Hospital Management Committee under section six or section seven of this Act, is held on trust immediately before the appointed day, and the terms of the trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any hospital to which section six of this Act applies, the trust instrument shall be construed as authorising or, as the case may be, requiring the trustees to apply the trust property, to the like extent and at the like times, for the purpose of making payments, whether of capital or income—

(*a*) in the case of a hospital designated as a teaching hospital or included in a group of hospitals so designated, to the Board of Governors of that teaching hospital ;

(*b*) in the case of any other hospital, to the Regional Hospital Board for the area in which the hospital is situated or to the Hospital Management Committee for the hospital or for the group of hospitals in which it is comprised.

(2) Any sums paid as aforesaid to any such Board or Committee shall, so far as practicable, be applied by them for the purposes specified in the trust instrument.

Property transferable under s. 6 is as specified in s. 6 (1) and (2). Property may possibly fall partly under s. 6 (1) or (2) and under s. 60, in which case it would be subject to apportionment under s. 6 (5).

Property transferable under s. 7 in the case of a voluntary hospital is as specified in s. 7 (10). Property falling within the description contained in s. 7 (10), in the case of a transferred local authority hospital, is transferred to the Minister under s. 6 (2), but, by virtue of s. 7 (11), is to be dealt with by him as an endowment within the meaning of s. 7. Hence, in the case of property relating to a voluntary hospital, which is partly an endowment within the meaning of s. 7 (10), and partly property within s. 60, it would be apportioned under s. 7 (9), but in the case of a local authority hospital under s. 6 (5).

Further, as to property falling under ss. 6 and 7, see notes on those sections; the governing factor is whether it is held solely for the purposes of that hospital, or of those hospitals, as the case may be. Such property held by the governing body of the hospital as falls within that description is transferable under ss. 6 or 7, as the case may be, and if held partly for such purposes and partly for other purposes falling under s. 60 or otherwise, is subject to apportionment.

In the main, however, s. 60 is designed to authorise use of trust property not in the hands of hospital governing bodies and not transferred to the Minister on the appointed day, but which was at that time held on trusts authorising or requiring expenditure of capital or income for the purposes of any transferred hospital. The section clearly requires :—

(i) That when a hospital has been transferred which becomes a teaching hospital under the Act, any capital or income the trustees were obliged to pay over to the old hospital governing body they are equally obliged to pay to the new Board of Governors, and such transfers are free of the requirement as to use for any particular purpose laid down in the trust instrument, this by implication of sub-s. (2), which merely requires application to such purposes *so far as practicable.*

(ii) That where the hospital transferred is not a teaching hospital, but the circumstances are otherwise as in (i) above, the transfer is to be made either to the appropriate Regional Hospital Board or the Hospital Management Committee, the choice being apparently at the discretion of the trustees. In all other respects the position is as under (i).

(iii) That where the position is as under (i), but the obligation is to distribute to all or some of a number of hospitals all transferred to the Minister under the Act, but the share of each hospital is at the discretion of the trustees, then on the shares being determined, the transfer would be made in each individual case under either (i) or (ii).

It is to be observed that, where there was immediately before the

appointed day an obligation on the trustees to distribute to all or some of a number of hospitals and other charities (and whether any particular hospital or charity received any share at all was at the discretion of the trustees), and not all the hospitals and other charities are transferred to the Minister, then whether after the appointed day a transferred hospital receives any benefit at all is entirely at the discretion of the trustees. It seems, however, that if such a discretionary transfer of capital or income is made to one of the new hospital governing bodies specified in the section under a trust subsisting immediately prior to the appointed day, the trustees will have no power to insist that the money or other property transferred shall be used for any particular purpose, the extent of the obligation of the hospital governing body being laid down in sub-s. (2). The position is the same as regards any other discretionary trust existing immediately before the appointed day, under which trustees were authorised, but not required, to transfer capital or income to the governing body of a hospital transferred to the Minister.

It is further to be observed that whilst in all the cases mentioned above it appears that any obligation as to purpose will be binding only to the extent laid down in sub-s. (2), any condition subject to which the transfer is to be made may—according to the circumstances of the particular case—be enforceable. Without a full analysis of the distinction and all its applications, which is impracticable, it is impossible to do more than suggest as an example that a condition that a hospital should receive a certain sum only after a maternity wing had been built would still *primâ facie* be enforceable because the money could be withheld by the trustees until the condition was complied with, whereas a transfer by the trustees for the purpose of building such a wing would be subject to sub-s. (2). But in the case of a condition which could no longer—as a result of the Act—be complied with, the property in the hands of the trustees will fall to be disposed of in accordance with the general provisions of the law relating to charitable trusts, taking into account whether there was an overriding charitable intention. As to these matters, guidance must be sought in works dealing with the subject. It seems clear, however, from sub-s. (1) that a condition that a hospital was to benefit or might benefit from a particular trust only so long as it was a voluntary hospital or under any particular form of governing body abolished by the Act would, by virtue of the provisions of the section, be void, and the hospital would or could benefit nevertheless from the trust after the appointed day.

Sect. 60 has no application to property not held, as defined in sub-s. (1), immediately before the appointed day. Hence, new trusts thereafter are unaffected by it and property may be given by trustees, and under s. 59 accepted by transferred hospital governing bodies from such new trusts, subject to use for particular

purposes, provided within the authority of the hospital governing body. Equally, a trust existing before the appointed day for the benefit or discretionary benefit of a hospital not transferred to the Minister under s. 6 is untouched by the section, even though the hospital may be subsequently acquired under ss. 10 and 58.

For meaning of " appointed day," see s. 79.

Preservation of Associations of Denominational Hospitals

61. Where the character and associations of any voluntary hospital transferred to the Minister by virtue of this Act are such as to link it with a particular religious denomination, regard shall be had in the general administration of the hospital and in the making of appointments to the Hospital Management Committee to the preservation of the character and associations of the hospital.

All this section requires is that regard shall be had to the factors specified. It does not require that all the members of the governing body of a hospital linked with a particular religious denomination shall be members of that body, or even that any of them shall be appointed after consultation with representative members of the particular religious denomination, still less does it require that the governing body shall be recruited from any particular group, such as a monastic or conventual order within such denomination. It must also be appreciated that under s. 11 (3) a Hospital Management Committee may be appointed for a group of hospitals, and the number of persons appointed with regard to the religious character of one of such a group of hospitals would naturally be smaller than in the case of a committee being appointed for that hospital alone. The religious character of the hospital might, however, be a ground for seeking the appointment of a separate committee, though neither the Regional Board nor the Minister is under any obligation to agree.

In the event of there being any complaint that regard had not been had by the Hospital Management Committee to the religious character and associations of a hospital in its administration, or by the Regional Hospital Board, either in its administration or in appointments to the Hospital Management Committee, it could be made to the Minister under s. 57, but there appears to be no provision in the Act for an application to the courts in the event of dissatisfaction with the Minister's decision.

Provision of Special Schools

62. A Regional Hospital Board or Board of Governors of a teaching hospital may, with the approval of the Minister,

arrange with any local education authority or voluntary organisation for—

(*a*) the use of any premises forming part of a hospital administered by the Regional Hospital Board or, as the case may be, forming part of the teaching hospital, as a special school ; and

(*b*) the maintenance by the Board, where necessary, of children (other than patients) attending the special school ;

and the arrangements may include provision for the payment of charges by the local education authority or voluntary organisation, as the case may be, in respect of the use of such premises and the maintenance of such children.

Special schools are defined in the Education Act, 1944, s. 120 (*d*).

The kind of hospitals which would probably make such arrangements are those with long-stay cases, *e.g.*, orthopædic hospitals, sanatoria and mental deficiency institutions. Under such an arrangement as is permitted under this section the hospital authority would provide the premises on terms to be agreed, both for patients and for other children attending the school, and might provide maintenance, presumably including board and lodging, for children other than patients attending the school. The teaching, however, would be the responsibility of the local education authority or voluntary organisation entering into the arrangement.

Apparently an arrangement of the kind, permitted by this section with the approval of the Minister, could be made, even though there were no child patients at the hospital who would attend the school.

It is provided in reg. 5 (8) of the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948, that the functions of a regional hospital board under this section shall, subject to any regulations and to directions of the Minister or of the board, be delegated to hospital management committees.

For meaning of " local education authority " and " voluntary," see s. 79.

Use of Premises and Equipment of Local Health Authority by Other Authorities

63. A local health authority who provide premises, furniture or equipment for any of the purposes of this Act may, on such terms (including terms with respect to the services of any staff employed by them) as may be agreed, permit the use

thereof by any other local health authority or by any of the bodies constituted under this Act or by any voluntary organisation providing services under Part III of this Act or any service connected with the duties of a local health authority under the Mental Deficiency Acts, 1913 to 1938, or by a local education authority.

As to local health authorities, see s. 19.

Bodies constituted under the Act to which the provisions of this section might apply include Regional Hospital Boards, Hospital Management Committees, Boards of Governors of teaching hospitals, Executive Councils, Local Medical, Dental and Pharmaceutical Committees. But it might also apply to such bodies as the Central Health Services Council, Standing Advisory Committees, the Tribunal, the Medical Practices Committee and the Dental Estimates Board.

For meaning of " voluntary," see s. 79.

Supply of Goods by Local Health Authorities

64. A local health authority may purchase and store and supply to the following authorities, that is to say—

(*a*) any other local health authority ;

(*b*) any Regional Hospital Board or Board of Governors of a teaching hospital or Hospital Management Committee ; or

(*c*) any Executive Council ;

any goods or materials required for the discharge of the functions of the authority supplied, on such terms as may be agreed between the two authorities.

Provision of Residential Accommodation for Staff

65. A local health authority may provide, or may improve or furnish, residential accommodation for officers employed by them for the purposes of any of their functions as a local health authority, or for officers employed by a voluntary organisation for the purposes of any services provided under Part III of this Act.

The provisions of this section must be read subject to those of s. 66, under which the Minister may make regulations as to qualifications, remuneration and conditions of service of any officers.

Qualifications, Remuneration and Conditions of Service of Officers

66. Regulations may make provision with respect to the qualifications, remuneration, and conditions of service of any officers employed by any body constituted under this Act or employed by a local health authority in their capacity as such authority or by any such voluntary organisation as is referred to in section sixty-three of this Act, and no officer to whom the regulations apply shall be employed otherwise than in accordance with the regulations.

This section gives the Minister ultimate control by way of regulations of the qualifications, remuneration and conditions of service of all those employed in providing services under the Act whether the employing authority be a body established under the Act, such as the Central Health Services Council or a Regional Hospital Board, a local health authority or a voluntary organisation co-operating with a local health authority in providing services.

For meaning of " regulations " and " officers," see s. 79.

Superannuation of Officers

67.—(1) Regulations may provide—

(*a*) for the granting out of moneys provided by Parliament of superannuation benefits to officers of such classes as may be prescribed, being officers of Regional Hospital Boards, Boards of Governors of teaching hospitals, Executive Councils or other bodies constituted under this Act, or other officers engaged in health services, whether provided under this Act or otherwise but not provided by a local health authority or other local authority, and for the recovery of contributions from such officers and, in such cases as may be prescribed, from their employers ;

(*b*) for extending, with such modifications as may be prescribed, the provisions of the Local Government Superannuation Act, 1937,[1] or any local Act scheme within the meaning of that Act to such officers as may be prescribed, or for modifying the provisions of the said Act or of any such scheme in their application to such officers as may be prescribed, being in

[1] 1 Edw. 8 & 1 Geo. 6, c. 68.

either case officers of local health authorities or other local authorities or officers of voluntary organisations engaged in the provision of services under Part III of this Act or under the Mental Deficiency Acts, 1913 to 1938 ;

(*c*) for the granting out of moneys provided by Parliament of superannuation benefits to medical practitioners and dental practitioners providing general medical services or general dental services, and for the recovery of contributions from such practitioners and, in such cases as may be prescribed, from Executive Councils ;

(*d*) for dealing with cases where any person is engaged in employment which would bring him within all or any two of the foregoing paragraphs ;

(*e*) for the payment to the Minister by any local authority or other person of transfer value in respect of persons who become entitled to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament, who were previously entitled to participate in superannuation benefits provided by that authority or person or to which that authority or person was liable to contribute, or for the transfer to the Minister, in lieu of such payment, of any fund or part of a fund or policy of insurance previously maintained for the purpose of providing superannuation benefits to persons who become entitled to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament ;

(*f*) for the payment of transfer value by the Minister in respect of persons leaving employment entitling them to participate in superannuation benefits provided under the regulations out of moneys provided by Parliament and entering employment entitling them to participate in superannuation benefits otherwise provided ;

(*g*) for making special provision for special classes of persons ;

(*h*) for granting to persons who, immediately before

becoming entitled to participate in superannuation benefits provided under or by virtue of the regulations, were entitled to participate in other superannuation benefits, an option to retain rights corresponding with those previously enjoyed by them in lieu of the rights which they would otherwise enjoy under or by virtue of the regulations ;

(*i*) for the determination of all questions arising under the regulations by the Minister ;

(*k*) for such provisions supplementary to and consequential on the matters aforesaid as appear to the Minister to be necessary, including provisions for adapting, modifying or repealing any Acts of Parliament, whether public general, local or private, or any such local Act schemes as aforesaid so far as appears to the Minister to be necessary in consequence of the regulations.

(2) If the Minister and a Secretary of State are satisfied that any Act for the time being in force in Scotland or in Northern Ireland makes provision with respect to the superannuation of persons employed in health services in Scotland or Northern Ireland which is substantially similar to the provision made under this section, they may make regulations with respect to the rights and liabilities of any person who leaves employment in Scotland or Northern Ireland entitling him to participate in superannuation benefits (whether provided under the said Act or otherwise) and enters into employment in respect of which superannuation benefits are provided under regulations made under subsection (1) of this section or into the employment of a local health authority in respect of which superannuation benefits are provided under the Local Government Superannuation Act, 1937, as extended or modified by the regulations, or under a local Act scheme as so extended or modified, and vice versa, and with respect to the rights and liabilities of the Minister, the Secretary of State and other authorities concerned.

The National Health Service (Superannuation) Regulations, 1947, have been made under sub-s. (1) and deal with all the matters herein referred to.

It is impracticable to include here a summary of the regulations,

but it may be observed that the most troublesome problems are likely to arise as regards transferred voluntary hospital officers and the meaning of " reasonable expectations " under reg. 25. As to that reference may usefully be made to the Ministry of Health Circular No. 11/48, dated 30th January, 1948, where it is expressly stated that the Minister would not rule out a declaration of intention subsequent to 19th March, 1946, provided the Board (*i.e.*, the voluntary hospital governing body) affirms that the intention existed in respect of the named person or persons prior to that date and has been in no way influenced by the forthcoming transfer of the hospital. The circular continues : " In many of these cases the amount, or the method of calculation, as well as the undeclared intention, will have been in the minds of the Board before March, 1946, and will now be put into writing. In other cases this may have been left to be settled on the retirement of an officer, and in coming to a decision on the matter now the Board will no doubt keep in mind that the Minister would find it extremely difficult to seek Treasury approval to any payment based on a calculation which exceeds normal hospital practice in relation to the category of officer concerned."

It may be noted that an officer in voluntary hospital service on the appointed day, who had transferred to such service from local government service not more than twelve months previously could opt for superannuation purposes to revive his superannuable service under the Local Government Superannuation Act, 1937, or analogous local Act, but an officer who transferred over a year before the appointed day could not do so.

As to special formalities for making regulations under this section, see s. 75 (1).

For meaning of " regulations," " superannuation benefits," " officers " and " prescribed," see s. 79.

Transfer and Compensation of Officers

68.—(1) Regulations shall provide—

(*a*) for the transfer of officers employed immediately before the appointed day solely or mainly at or for the purposes of any hospital transferred to the Minister by virtue of this Act, to the Regional Hospital Board for the area in which the hospital is situated or, in the case of a teaching hospital, to the Board of Governors of that hospital, subject, in the case of honorary officers, to such exceptions and conditions as may be prescribed ;

(*b*) for the transfer of officers employed immediately before the appointed day solely or mainly at or for

the purposes of a medical or dental school for which a new governing body is constituted under Part II of this Act, to that governing body ;

(*c*) for the transfer of officers employed immediately before the appointed day by the Common Council of the City of London, the council of a metropolitan borough or the council of a county district solely or mainly for the purposes of functions transferred from that council to a local health authority, to that authority ;

(*d*) for the transfer of officers employed immediately before the appointed day by the insurance committee for any county or county borough to the Executive Council for the area comprising that county or county borough ;

(*e*) for the payment of compensation subject to any prescribed exceptions or conditions, by the Minister or such local health authority or other local authority as may be prescribed, to persons who immediately before the appointed day—

(i) devoted the whole of their time to employment by the governing body of a voluntary hospital, a local authority, an insurance committee or any such other body as may be prescribed, or to any combination of such employments ; and

(ii) were employed for at least part of their time for the purposes of any hospital transferred to the Minister by virtue of this Act or for the purposes of functions which cease, or are transferred from the employing authority or body, in consequence of this Act,

and who suffer loss of employment or loss or diminution of emoluments which is attributable to the passing of this Act ;

(*f*) for the payment of compensation subject to any prescribed exceptions or conditions by the Minister or the appropriate authority to officers who, having before the appointed day been employed in the employment mentioned in paragraph (*e*) hereof, would have been in that employment immediately before

that day but for any war service in which they have been engaged ; and

(*g*) for the determination of all questions arising under the regulations.

In sub-s. (1) (*d*), in its application to the Isles of Scilly, must be substituted the Isles of Scilly for references to a county or county borough.[1]

(2) This section shall—

(i) apply, in the case of an officer employed immediately before the appointed day solely or mainly for the purposes of two or more hospitals, not all of which will be administered by the same Regional Hospital Board or Board of Governors, with the modification that the Board to whom the officer is to be transferred shall be determined by the Minister ;

(ii) apply in relation to a joint insurance committee constituted under section ninety-four of the National Health Insurance Act, 1936, as it applies to an insurance committee for a county or county borough, with the modification that the Executive Council to whom any officer is to be transferred shall be determined by the Minister,

and the expression " war service " in this section means service in any of His Majesty's forces and such other employment as may be prescribed.

This section requires that regulations shall be made for the purposes but the actual conditions of compensation under sub-s. (1) (*e*) are entirely at the Minister's discretion, since the payment of compensation is to be " subject to any prescribed exceptions and conditions," *prescribed*, as everywhere in the Act, meaning " prescribed by regulations made by the Minister under this Act " (s. 79).

For detailed provisions, see the National Health Service (Transfer of Officers and Compensation) Regulations, 1948.

For meaning of " regulations," " appointed day," " hospital," " teaching hospital " and " prescribed," see s. 79.

Consequential Provisions on Transfer of Functions

69.—(1) Regulations may make such provision consequential on or supplementary to the transfer of any functions by

[1] Isles of Scilly (National Health Service) Order, 1948, S. I. 1948, No. 167.

virtue of this Act from the Common Council of the City of London, the council of a metropolitan borough or the council of a county district to a local health authority as appears to the Minister to be necessary or expedient, and in particular, but without prejudice to the generality of this subsection, regulations may provide—

(*a*) for the transfer to the local health authority of property and liabilities held or incurred for the purposes of the said functions ;

(*b*) for the making of adjustments between the local health authority and the council from whom the functions were transferred in relation to the said property and liabilities, including the making of payments by the said authority or council ;

(*c*) for the amendment of documents relating to the said property and liabilities to such extent as appears to the Minister to be necessary for the purposes of such transfer ;

(*d*) for enabling any proceedings pending on the appointed day with respect to any such functions, property or liabilities to be carried on by or against the local health authority ;

(*e*) for continuing in force anything done by or in relation to the authority from whom any functions were so transferred ; and

(*f*) for the determination of questions arising in relation to the matters aforesaid.

(2) Regulations may also provide—

(*a*) for the transfer of property and liabilities to an Executive Council from the insurance committee for any county or county borough comprised in the area of the Council, and for the amendment of any contracts or other documents relating thereto to such extent as appears to the Minister to be necessary for the purposes of such transfer ;

(*b*) for the transfer of property and liabilities to the Minister from the Dental Benefit Council constituted under the National Health Insurance Act, 1936, and the Committee approved for the purpose of administering ophthalmic benefit under that Act, and for the

amendment of contracts and other documents to such extent as appears to the Minister to be necessary for the purposes of such transfer ;

(*c*) for enabling any proceedings pending with respect to any such property or liabilities to be carried on by or against the Executive Council or the Minister as the case may be ; and

(*d*) for the determination of questions arising in relation to the matters aforesaid.

This subsection shall apply in relation to a joint insurance committee constituted under section ninety-four of the National Health Insurance Act, 1936, as it applies in relation to an insurance committee for a county or county borough, with the modification that the Executive Council to whom any property, right or liability is to be transferred, or by or against whom any proceedings are to be carried on, shall be determined by the Minister.

The making of regulations for the various purposes referred to in this section is permissive, not obligatory. The Minister is, however, obliged to determine such matters as fall within the last paragraph of sub-s. (2).

In sub-s. (2) (*a*), as relating to the Isles of Scilly, for the words " to an Executive Council from the insurance committee for any county or county borough comprised in the area of the Council " are to be substituted the words " *to the Executive Council from the Insurance Committee of the Isles.*" [1]

For meaning of " regulations " and " property," see s. 79.

Inquiries

70. The Minister may cause an inquiry to be held in any case where he deems it advisable to do so in connection with any matter arising under this Act, and subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, shall apply to any inquiry held under this Act :

Provided that no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless it is a party thereto.

Recovery of Charges

71. All charges recoverable under this Act by the Minister, a local health authority or any body constituted under this

[1] Isles of Scilly (National Health Service) Order, 1948, S. I. 1948, No. 167.

Act, may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

The effect of this section is that, as an alternative to proceedings for recovery of charges in the High Court or the County Court, the Minister, a local health authority, a regional hospital board, a board of governors of a teaching hospital, a hospital management committee, or any other body constituted under the Act, being authorised to make charges, may recover them by proceedings in a Court of Summary Jurisdiction (*i.e.*, before magistrate or justices of the peace).

Protection of Members and Officers of Certain Bodies

72. Section two hundred and sixty-five of the Public Health Act, 1875[1] (which relates to the protection of members and officers of certain authorities) shall have effect as if there were included among the authorities therein referred to a Regional Hospital Board, the Board of Governors of a teaching hospital, a Hospital Management Committee, a local health authority and an Executive Council, and as if any reference in that section to the Public Health Act, 1875, included a reference to this Act.

Sect. 265 of the Public Health Act, 1875, now extended to members and officers of authorities named in s. 72 of the National Health Service Act, 1946, reads :—

" No matter or thing done, and no contract entered into by any local authority or joint board or port sanitary authority, and no matter or thing done by any member of such authority or by any officer of such authority or other person whomsoever acting under the direction of such authority, shall if the matter or thing were done or the contract were entered into *bona fide* for the purpose of executing this Act subject them or any of them personally to any action, liability, claim or demand whatsoever ; and any expense incurred by any such authority, member, officer or other person acting as last aforesaid shall be borne and repaid out of the fund or rate applicable by such authority to the general purposes of this Act.

" Provided that nothing in this section shall exempt any member of any such authority from any liability to be surcharged with the amount of any payment which may be disallowed by the auditor in accounts of such authority, and which such member authorised or joined in authorising."

But it must be appreciated that the section does not protect any

[1] 38 & 39 Vict., c. 55.

of the authorities named in its corporate capacity against any action in respect of any contract or other matter referred to in the section, nor does it protect officers against actions in tort based on negligence, etc. But any action in tort, either against the hospital authority or against the officer concerned would have to be brought within the period laid down in s. 21 of the Limitation Act, 1939.

The effect of s. 72 in respect of hospital authorities acting as trustees of charitable funds under s. 7 (2), the proviso to s. 7 (4) or s. 59, is that individual members would not be liable for technical breaches of trust, *e.g.*, loss due to unauthorised investment or to defaults of others, provided their actions were *bona fide*, even though negligent, but they would be liable civilly as well as criminally for their own fraudulent breaches of trust.

Exemptions from Stamp Duty on Certain Documents Required for Purposes of Act

73. Stamp duty shall not be chargeable on any draft, order or receipt given by or to an Executive Council in respect of money payable in pursuance of this Act, or on any agreement entered into by any person with an Executive Council for the provision of services under Part IV of this Act, or on any document required in connection with the transfer of property or liabilities from an insurance committee to an Executive Council.

The exemption in respect of drafts and orders is apparently meant to cover not only cheques but any type of document used to effect the purpose of payment of money, including the popular conditional order with receipt attached. But the exemption for drafts, orders and for receipts is only in respect of money *payable in pursuance of the Act.* Presumably all money paid out by an Executive Committee would fall within this description, so that all its drafts and orders would be exempt from stamp duty, as well as all receipts given to the Executive Committee for such payments, even though for goods supplied, a startling proposition.

But what of money payable to an Executive Council ? That may undoubtedly be in pursuance of the Act, as when the payment is made by a medical or dental practitioner for use of accommodation at a health centre under s. 46. Then it is submitted the medical or dental practitioner need not stamp any cheque or other draft or order he may use for the purpose of settling his indebtedness nor need the Executive Council stamp the receipt. Whether such draft or order would need to be stamped, even if issued by a third party, such as a bank or a private friend, for the doctor, takes us into more speculative realms.

Another case to be considered is the payment of money to an Executive Council, *e.g.*, in respect of rent of land, such surely not being a payment in pursuance of the Act, but simply as an incident of an ordinary agreement between two parties. Clearly in such case the draft or order would not be exempt from stamp duty, and it is submitted that as the money is not payable in pursuance of the Act, neither is the receipt of the Executive Council therefor exempt.

Miscellaneous Administrative Matters

74. Regulations may make provision for all or any of the following matters :

(*a*) for prescribing the forms of notices and other documents, and the manner of service of notices and other documents ;

(*b*) for prescribing the manner in which documents may be executed or proved ;

(*c*) for prescribing the manner in which resolutions of local health authorities and any bodies constituted under this Act are to be proved ;

(*d*) for exempting judges and justices of the peace from disqualification by their liability to rates.

Regulations and Orders

75.—(1) No regulations shall be made under section sixty-seven or section sixty-eight of this Act unless a draft of the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.

(2) All regulations made under this Act, except regulations made under section sixty-seven or section sixty-eight, and all orders made under subsection (2) of section two or section seventy-seven of this Act and such of the orders made under subsection (1) of section eleven of this Act as determine the areas for which Regional Hospital Boards are to be constituted shall be laid before Parliament immediately after they are made, and if either House of Parliament, within the period of forty days beginning with the day on which any such regulations or order are or is laid before it, resolves that the regulations or order be annulled, the regulations or order shall cease to have effect, but without prejudice to anything pre-

viously done thereunder or to the making of new regulations or a new order.

In reckoning any such period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(3) Any power conferred on the Minister by this Act to make regulations shall, if the Treasury so direct, not be exercisable except in conjunction with the Treasury.

(4) Any order made by the Minister under this Act may be varied or revoked by a subsequent order of the Minister made in like manner and subject to the like conditions as the original order.

(5) Section one of the Rules Publication Act, 1893[1] (which requires notice to be given of a proposal to make Statutory Rules) shall not apply to any such regulations or order as aforesaid.

All regulations made under the Act must be laid before Parliament, but whilst those under s. 67 (as to superannuation) and under s. 68 (as to compensation) become effective only on approval by resolution of both Houses, all others are valid immediately they are made and laid before Parliament, though subject to annulment by resolution of either House within forty days, calculated as laid down in sub-s. (2).

In respect of certain financial matters (*e.g.*, ss. 53 and 55) the Minister is by the sections concerned obliged to make regulations only with the approval of the Treasury. Sect. 75 (3) gives the Treasury the right to be joined in the making of all regulations if it so desires, this presumably in case there may be serious financial implications.

Supplementary Provisions

Consequential Amendment and Repeal of Enactments

76. As from the appointed day, the enactments specified in Part I of the Tenth Schedule to this Act shall be amended to the extent therein specified, and the enactments specified in Part II of the said Schedule shall be repealed to the extent specified in the third column of that Part, such amendment and repeal being required in consequence of the passing of this

[1] 56 & 57 Vict., c. 66.

Act or for the purpose of bringing the said enactments into conformity with the provisions of this Act.

For provision for repeal or amendment of local and private Acts and charters not dealt with in Schedule 10, but made necessary by the passing of the Act, see s. 77.

Those few amendments and repeals in the Tenth Schedule relating to transfer of functions from the Board of Control to the Minister became operative on 1st July, 1947, by virtue of the National Health Service (Appointed Day) Order, 1947. The remainder take effect on 5th July, 1948, this by virtue of the National Health Service (Appointed Day) Order, 1948.

For meaning of "Appointed Day," see s. 79.

Amendment and Repeal of Local Acts and Charters

77.—(1) Where at the passing of this Act there is in force a local or private Act or charter containing provisions appearing to the Minister either to be inconsistent with any of the provisions of this Act or to be redundant in consequence of the passing of this Act, the Minister may by order make such alterations, whether by amendment or by repeal, in the local or private Act or charter as appear to him to be necessary for the purpose of bringing its provisions into conformity with the provisions of this Act, or for the purpose of removing redundant provisions, as the case may be.

(2) Any provision of a local or private Act or charter defining or restricting the objects of any hospital to which section six of this Act applies or the purposes for which any property transferred to the Minister or the Board of Governors of a teaching hospital by virtue of this Act may be used shall cease to have effect.

Any limitation of the objects of any hospital transferred to the Minister under s. 6, by virtue of s. 77 (2), is removed without any order by the Minister under sub-s. (1). But in the case of any further repeal or amendment of any local or private Act or charter made necessary by the passing of the present Act, it must be done by means of an order made by the Minister under sub-s. (1), which order must be laid before Parliament under the provisions of s. 75 (2), and may be annulled by resolution of either House in accordance with that section.

Governing bodies of transferred voluntary hospitals, whether constituted by Act, charter or otherwise, whose functions wholly cease in consequence of the Act, as well as certain joint boards constituted under local Acts, visiting committees, etc., are dissolved

under the provisions of s. 78, this impliedly repealing the Act, charter or other authority for the appointment of such bodies to that extent.

For meaning of " hospital " and " teaching hospital," see s. 79.

Provision for Winding Up Certain Bodies

78.—(1) The following bodies, that is to say—

(*a*) visiting committees constituted under section seven of the Mental Treatment Act, 1930, joint visiting committees constituted under section two hundred and fifty-three of the Lunacy Act, 1890, joint mental hospital boards constituted under any local Act, committees constituted under section twenty-eight of the Mental Deficiency Act, 1913, for the care of the mentally defective and joint boards and joint committees constituted under section twenty-nine of that Act ;

(*b*) joint boards constituted under the Public Health Act, 1936, or any enactment repealed by that Act, solely for the purpose of exercising functions which cease to be exercisable in consequence of this Act or are transferred to a local health authority or other person by this Act ; and

(*c*) governing bodies of voluntary hospitals transferred to the Minister by virtue of this Act whose functions wholly cease in consequence of this Act ;

shall as from the appointed day be dissolved, and regulations may make such provision, supplementary to the provisions of this Act, as may be necessary for the purpose of winding up the affairs of those bodies.

(2) Without prejudice to the provisions of the last foregoing subsection, regulations may provide that any rights or liabilities of any of the bodies referred to in paragraphs (*a*) and (*b*) of the last foregoing subsection under any enactment, scheme or contract providing for the payment of, or contribution towards, superannuation benefits in respect of officers employed by those bodies, being rights and liabilities arising in respect of officers who have ceased to be so employed before the appointed day, shall as from that day be transferred to the local authorities by whom the said bodies were appointed or, in the case of

joint committees or joint boards, be apportioned among the constituent authorities of those committees or boards.

The repeal and amendment of local and private Acts and charters generally, as necessitated by the Act, are dealt with in s. 77, but this section works an implied repeal or revocation of Acts, or parts or sections of Acts, charters, memoranda and articles, trust deeds or other instruments under which the boards and governing bodies have been constituted except as regards those public Acts mentioned in sub-s. (1) (*a*) and (*b*), the relevant provisions of which are expressly repealed by virtue of the Ninth and Tenth Schedules.

It is to be appreciated that joint boards referred to in s. 78 (1) (*b*) are dissolved only if constituted solely for the purpose of exercising functions which cease to be exercisable or are transferred under the Act. Similarly, under s. 78 (1) (*c*), governing bodies of voluntary hospitals are dissolved only if their functions wholly cease in consequence of the Act. In the case of a few voluntary hospitals this limitation may need serious consideration.

The Minister's power to make regulations for winding up the affairs of bodies dissolved under this section must be laid before Parliament in accordance with the provisions of s. 75.

It will be observed that s. 78 (2) applies only to rights and liabilities in respect of *superannuation benefits of officers who have ceased to be employed before the appointed day*. Transfer values in respect of officers transferred under the Act are dealt with in the National Health Service (Superannuation) Regulations, 1947, reg. 47 (3), made under the provisions of s. 67 (1) (*e*) of the Act.

For meaning of " voluntary hospitals " and " appointed day," see s. 79.

Interpretation

79.—(1) In this Act unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

" appointed day " means such day as His Majesty may by Order-in-Council appoint, and different days may be appointed for the purposes of different provisions of this Act and for the repeal or amendment of different enactments by this Act ;

" certified midwife " means a person certified under the Midwives Acts, 1902 to 1936 ;

" dental practitioner " means a person registered in the dentists register under the Dentists Acts, 1878 to 1923 ;

" dispensing optician " means a person having the pre-

scribed qualifications for the fitting and supply of optical appliances ;

For prescribed qualifications, see National Health Service (Executive Councils) Regulations, 1947, reg. 19.

" equipment " includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle ;

" the governing body," in relation to any voluntary hospital, includes any body, whether corporate or unincorporate, having the control and management of the hospital or any part thereof or otherwise carrying on the business of the hospital or any part thereof ;

" hospital " means any institution for the reception and treatment of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid, and " hospital accommodation " shall be construed accordingly ;

" illness " includes mental illness and any injury or disability requiring medical or dental treatment or nursing ;

" insurance committee " means an insurance committee constituted under the National Health Insurance Act, 1936 ;

" local authority " means the council of a county or county borough, the Common Council of the City of London, the council of a metropolitan borough and the council of a county district, and also includes—

(*a*) any joint board constituted under the Public Health Act, 1936, or under the Public Health (London) Act, 1936, or any enactment repealed by those Acts, or any port health authority constituted under those Acts or under any Act passed before those Acts ;

(*b*) any visiting committee constituted under section seven of the Mental Treatment Act, 1930,

any joint visiting committee constituted under section two hundred and fifty-three of the Lunacy Act, 1890, any joint mental hospital board constituted under any local Act, any committee constituted under section twenty-eight of the Mental Deficiency Act, 1913, and any joint board or joint committee constituted under section twenty-nine of that Act ;

(*c*) the King Edward VII Welsh National Memorial Association ;

" local education authority " has the same meaning as in the Education Act, 1944 ;

" medical " includes surgical ;

" medical practitioner " means a registered medical practitioner ;

" medicine " includes any prescribed chemical re-agent ;

" officer " includes servant ;

" ophthalmic optician " means a person having the prescribed qualifications in optics, including the measurement of errors of refraction, in orthoptics and in the fitting and supply of optical appliances ;

For prescribed qualifications, see National Health Service (Executive Councils) Regulations, 1947, reg. 19.

" patient " includes an expectant or nursing mother and a lying-in woman ;

" prescribed " means prescribed by regulations made by the Minister under this Act ;

" property " includes rights ;

" registered nurse " means a nurse registered in the register of nurses established under the Nurses Registration Act, 1919[1] ;

" registered pharmacist " means a pharmacist registered in the register of pharmaceutical chemists or the register of chemists and druggists ;

" regulations " means regulations made by the Minister under this Act ;

" superannuation benefits " means annual superannuation allowances, gratuities and periodical payments

[1] 9 & 10 Geo. 5, c. 94.

payable on retirement, death or incapacity, and similar benefits ;

" teaching hospital " means a hospital or group of hospitals designated by the Minister as a teaching hospital by an order in force under Part II of this Act ;

" university " includes a university college ;

" voluntary " means not carried on for profit and not provided by a local or public authority.

(2) References in this Act to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital.

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act.

It is to be observed that the definitions contained in this section are subject to the customary proviso " unless the context otherwise requires," so that in any case in which a definition given would lead to a manifest absurdity, it is to be disregarded and the words would receive the natural meaning in such context. A possibly ambiguous case occurs in the section itself in the use of the word " prescribed " in the definition of " medicine " to include " any *prescribed* chemical reagent," since the word *prescribed* means (unless the context otherwise requires) " prescribed by regulations . . ." and the context here might at first sight suggest " prescribed by a medical practitioner " is the intention. However, reference to s. 38 (1) and (2), as to the provision of pharmaceutical services leads to the contrary conclusion. Sect. 38 (2) refers to " proper and sufficient drugs and medicines and prescribed appliances, if ordered by the medical practitioner . . ." carefully using the word *ordered* in relation to the doctor, whilst in s. 38 (1) the reference is to " supply . . . of proper and sufficient drugs and medicines and prescribed appliances," this suggesting that the use of the word prescribed in relation to appliance is to limit those which may be ordered by the medical practitioner to those which may have been prescribed by regulation. It is suggested that this is also the intention of the Act as regards chemical reagents.

As regards the making of regulations under the Act, special attention is drawn to the provisions of s. 75.

Short Title and Extent

80.—(1) This Act may be cited as the National Health Service Act, 1946.

(2) This Act, except subsection (2) of section sixty-seven

and the amendment made by the Ninth Schedule in subsection (3) of section eight of the Criminal Lunatics Act, 1884,[1] shall not extend to Scotland or to Northern Ireland.

(3) The Minister may by order direct that this Act shall, subject to such exceptions, adaptations and modifications, as may be specified in the order, extend to the Isles of Scilly, but except as so applied this Act shall not extend to the said Isles.

The Minister may by any such order amend or repeal any provisions contained in the Isles of Scilly Orders, 1927 to 1943.

A corresponding Act for Scotland, the National Health Service (Scotland) Act, 1947, has been passed. It is on substantially similar lines to the present Act, but differs in certain important details, notably as regards the constitution of hospital governing bodies.

The Isles of Scilly (National Health Service) Order, 1948,[2] makes the whole Act applicable to the Isles with certain mainly minor administrative amendments, which are noted under the sections and Schedule to which they relate. It is also provided in the Order that, as from the date on which s. 3 of the Act comes into operation, the Isles of Scilly Order, 1943, shall be amended by the deletion therefrom of art. 9 (2) (*e*) (which provides that the expenses in relation to the examination, conveyance and maintenance of rate-aided persons of unsound mind shall be general expenses) and art. 22 (which empowers the Council of the Isles to contract for the reception of rate-aided persons of unsound mind of the Isles into any mental hospital).

The 1948 Order also revokes the Isles of Scilly (National Health Service) Order, 1946,[3] which severely limited the application of the Act to the Isles.

[1] 47 & 48 Vict., c. 64.
[2] S. I. 1948, No. 167.
[3] S. R. & O. 1946, No. 2240.

SCHEDULES

Section 2 FIRST SCHEDULE

CENTRAL COUNCIL AND ADVISORY COMMITTEES

Constitution of Central Council

1. The number of members of the Central Council shall be forty one of whom six shall be the persons for the time being holding the offices of the President of the Royal College of Physicians of London, the President of the Royal College of Surgeons of England, the President of the Royal College of Obstetricians and Gynæcologists, the Chairman of the Council of the British Medical Association, the President of the General Medical Council and the Chairman of the Council of the Society of Medical Officers of Health, respectively ; and of the remaining thirty-five members, who shall be appointed by the Minister,—

(*a*) fifteen shall be medical practitioners of whom two shall be selected for their knowledge of mental illness and mental defectiveness ;
(*b*) five shall be persons, not being medical practitioners, with experience in hospital management ;
(*c*) five shall be persons, not being medical practitioners, with experience in local government ;
(*d*) three shall be dental practitioners ;
(*e*) two shall be persons with experience in mental health services ;
(*f*) two shall be registered nurses ;
(*g*) one shall be a certified midwife ; and
(*h*) two shall be registered pharmacists ;

and before appointing any of the persons specified in sub-paragraphs (*a*) to (*h*), respectively, the Minister shall consult with such organisations as he may recognise as representative of those persons.

This schedule must be read in conjunction with s. 2, by virtue of which it has the force of law.

Supplementary Provisions

2. Regulations may make provision with respect to the appointment, tenure of office and vacation of office of the members of the Central Council and of any standing advisory committee constituted

under section two of this Act and for the making of such payments as may be prescribed to such members and to members of any committee or sub-committee set up under paragraph 4 of this Schedule in respect of any loss of remunerative time or any travelling or subsistence expenses.

See the National Health Service (Central Health Service Council and Standing Advisory Committees) Regulations, 1948.

Standing Advisory Committees

The Minister, in setting up standing advisory committees, is bound only by the provisions of s. 2 of the Act and the relevant supplementary provisions of this Schedule. His only positive obligation as to constitution is as laid down in s. 2 (3).

Travelling Expenses, Subsistence Allowances and Loss of Remunerative Time

These matters referred to in the First Schedule (paragraph 2) are dealt with in the National Health Service (Travelling Allowances, etc.) Regulations, 1947, regs. 4 (2) and 5 and the Schedule thereto.

3. The Minister shall appoint a secretary to the Central Council and to each standing advisory committee, and the Central Council and any standing advisory committee may also appoint a secretary to the Council or the committee, as the case may be, who shall act jointly with the secretary appointed by the Minister.

Appointment of Secretary or Joint Secretaries

Whilst the Minister is obliged (paragraph 3) to appoint a secretary to the Central Council, as well as to each standing advisory committee, the Council or committee, as the case may be, *may* appoint a joint secretary, but is under no obligation to do so. The secretary or secretaries so appointed are not necessarily full-time officers.

4. The Central Council may appoint such committees, and any standing advisory committee may appoint such sub-committees, as they think fit, to consider and report upon questions referred to them by the Central Council or standing advisory committee, as the case may be, and any such committee or sub-committee may include persons who are not members of the Central Council or standing advisory committee, as the case may be.

5. The Central Council and any standing advisory committee shall elect one of the members of the Council or committee, as the case may be, to be chairman of the Council or committee, and shall have power to regulate their own procedure.

6. The proceedings of the Central Council or of any standing advisory committee shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof.

Section 10 SECOND SCHEDULE

ACQUISITION OF HOSPITAL PROPERTY OTHER THAN LAND

1. Where under section ten of this Act, in connection with the acquisition of any hospital, the Minister proposes to acquire any equipment, furniture or other movable property used in or in connection with the hospital premises, he may, at any time after the acquisition of the hospital (in the case of acquisition by agreement) or at any time after the service of the notice to treat (in the case of the compulsory acquisition of a hospital), serve a notice on the owner of the property specifying the property proposed to be acquired, and specifying the time within which and the manner in which any objection to such acquisition may be made.

2. If any objection is duly made, the Minister shall afford to the said owner an opportunity of appearing before and being heard by a person appointed by him for the purpose, and after considering any such objection and the report of the person so appointed by him, the Minister shall either withdraw the notice aforesaid or serve upon the owner a notice confirming that notice.

3. The property with respect to which a notice is served under paragraph 1 of this Schedule and is not withdrawn shall—

(*a*) if no objection is duly made to the notice, vest in the Minister at the expiration of the time for making such an objection ;

(*b*) if such an objection is duly made and the notice is confirmed by a notice served under the last foregoing paragraph, vest in the Minister on the service of the last mentioned notice ;

and shall in each case vest free of any mortgage, pledge, lien or similar obligation.

4. Where any property is acquired in accordance with this Schedule, there shall be paid by way of compensation to the owner of the property concerned a sum equal to the price which he might reasonably have been expected to have obtained upon a sale of the property effected by him immediately before the acquisition of the property by the Minister, and any dispute as to the amount of such compensation shall be determined by arbitration, and the compensation shall accrue due at the time when the property vested in the Minister.

5. Where property in respect of which compensation is payable as aforesaid was, immediately before the acquisition thereof by the Minister, in the possession of some person by virtue of a hire purchase agreement, that person may, by a notice served on the

Minister, make a claim to have apportioned to him such part of the compensation as may be specified in his claim ; and in default of agreement between the parties the claim shall be determined by arbitration and the arbitrator may apportion the compensation between the owner and the other person in such manner as appears to him to be just.

6. Any such compensation shall carry interest, as from the time when it accrues due until payment, at such rate as the Treasury may from time to time by order prescribe.

7. Where any sum by way of compensation is paid in accordance with this Schedule in respect of any property and, at the time when the compensation accrues due, the property is subject to any mortgage, pledge, lien or similar obligation, the sum so paid shall be deemed to be comprised in that mortgage, pledge, lien or other obligation.

As to extended meaning of *hospital*, see s. 79 and note to s. 10. Compulsory acquisition of the hospital land and buildings, as distinct from its equipment, furniture, etc., would be in accordance with s. 58 and not s. 10 and this Schedule.

Section 11

THIRD SCHEDULE

Regional Hospital Boards, Hospital Management Committees and Boards of Governors of Teaching Hospitals

Part I

Constitution of Regional Hospital Boards

A Regional Hospital Board shall consist of a chairman appointed by the Minister and such other members so appointed as the Minister thinks fit, and the members shall include—

(*a*) persons appointed after consultation with the university with which the provision of hospital and specialist services in the area of the Board is to be associated ;

(*b*) persons appointed after consultation with such organisations as the Minister may recognise as representative of the medical profession in the said area or the medical profession generally ;

(*c*) persons appointed after consultation with the local health authorities in the said area ; and

(*d*) persons appointed after consultation with such other organisations as appear to the Minister to be concerned ;

and the original members of the Board shall also include persons

appointed after consultation with such organisations as the Minister may recognise as representative of voluntary hospitals in the said area.

Before making appointments to fill vacancies, the Minister shall also consult the Board.

At least two of the members of the Board shall be persons with experience in mental health services.

This part must be read in conjunction with s. 11 (1). The first regional hospital boards were nominated by the Minister in the National Health Service (Constitution of Regional Hospital Boards) Order, 1947, the areas which are to be their responsibility having already been fixed by the National Health Service (Determination of Regional Hospital Areas) Order, 1946.

As to status, procedure, etc., see Part IV of the Schedule.

Part II

Constitution of Hospital Management Commiteets

A Hospital Management Committee shall consist of a chairman appointed by the Regional Hospital Board for the area in which the hospital or group of hospitals is situated and such other members so appointed as the Board thinks fit, and the members shall include—

(*a*) persons appointed after consultation with any local health authority whose area comprises the area or any part of the area served by the hospital or group ;

(*b*) persons appointed after consultation with any Executive Council (constituted under Part IV of this Act) whose area comprises the area or any part of the area served by the hospital or group ;

(*c*) persons appointed after consultation with the senior medical and dental staff employed at the hospital or the hospitals of the group, as the case may be ; and

(*d*) persons appointed after consultation with such other organisations as appear to the Board to be concerned ;

and, in the case of a Committee appointed before the appointed day for a voluntary hospital or for a group comprising any voluntary hospital, the original members of the Committee shall also include persons appointed after consultation with the governing body of any voluntary hospital concerned.

Before making appointments to fill vacancies, the Board shall also consult the Committee.

This part of the Schedule apparently confers almost unlimited discretion on Regional Hospital Boards in the appointment of Hospital Management Committees, subject only to an unspecified number or

proportion of those appointed being appointed after such consultations as are laid down in heads (*a*) to (*d*), but without any obligation to accept the nominees of the organisations consulted. It must, however, be read subject to s. 11 (3) of the Act, which obliges the Regional Boards to submit a scheme to the Minister for the appointment of Hospital Management Committees. The powers conferred on the Minister by s. 11 (4)–(7) indicate that the Minister may oblige Boards to nominate committees in accordance with principles to be determined in the schemes submitted and approved. See also s. 61 as to denominational hospitals.

As to status, procedure, etc., see Part IV of the Schedule.

Part III

Constitution of Boards of Governors of teaching hospitals

The Board of Governors of a teaching hospital shall consist of a chairman appointed by the Minister and such number of other members so appointed as the Minister thinks fit, and of those members—

(*a*) not more than one-fifth shall be nominated by the university with which the hospital is associated ;

(*b*) not more than one-fifth shall be nominated by the Regional Hospital Board for the area in which the hospital is situated ;

(*c*) not more than one-fifth shall be nominated by the medical and dental teaching staff of the hospital ; and

(*d*) other persons shall be appointed after consultation with such local health authorities and other organisations as appear to the Minister to be concerned, including, in the case of the original members of the Board of Governors of a teaching hospital designated before the appointed day, the governing body of any voluntary hospital comprised or to be comprised in the teaching hospital.

This part of the Schedule refers only to those hospitals designated as teaching hospitals under s. 11 (8).

Under this part of the Schedule, whilst the Minister will appoint the chairman and lay down the size of the Board of Governors of a teaching hospital, he will himself appoint only those members falling within class (*d*). The use of the expression "not more than a fifth" in respect of nominated classes (*a*), (*b*) and (*c*) gives the university, the Regional Board and the medical and dental teaching staff of the hospital respectively the right to nominate to one-fifth of the places on the Board (excluding the Chairman) if the authorised total membership of the Board, excluding the Chairman, is exactly divisible by five. In any other case, the number of nominated members will be one-fifth of the next lowest number which is exactly divisible by five. Thus if a Board, *excluding the Chairman*, comprised fifteen members, the nomi-

nated members would be three from each group, *i.e.*, nine in all, but if the Board, *including* the Chairman, comprised fifteen members, then the nominated members would be two from each group, *i.e.*, six in all.

As to status, procedure, etc., of Boards of Governors, see Part IV of the Schedule.

Part IV

Supplementary provisions

(Status, Procedure, etc., of Regional Hospital Boards, Hospital Management Committees and Boards of Governors of Teaching Hospitals) [1]

1. Regional Hospital Boards and Boards of Governors of teaching hospitals and Hospital Management Committees shall be bodies corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

By virtue of this paragraph, Regional Hospital Boards, Hospital Management Committees and Boards of Governors of teaching hospitals are made statutory corporations, but the exemption of members and officers from personal liability is not absolute, being governed by s. 72 of the Act, which makes the provisions of s. 265 of the Public Health Act, 1875, applicable, that Act expressly preserving the liability to surcharge by auditors. It would also seem that such bodies holding trust property under s. 7 (1), the proviso to s. 7 (4), s. 7 (11) or s. 59 would, in respect of such charitable trust, be subject to the same extent as other incorporated charitable trustees to personal liability for breach of trust, as to which see such works as Tudor on "Charities" and Lewin on "Trusts." They would also appear subject to the same obligations as other charitable trustees to invest promptly and in trustee securities, unless otherwise authorised or excused by the terms of the trust or in accordance with the general principles relating to such trusts, but see note to s. 72.

It is further to be observed that the land and buildings of all hospitals within the national hospital service on the appointed day vest in the Minister under s. 6, and that any additional hospital premises needed thereafter will be acquired by and vest in the Minister under ss. 10 and 58. Hence, the power to hold land without licence in mortmain, here conferred on Regional Hospital Boards, Hospital Management Committees and Boards of Governors of teaching hospitals, can be construed only as referring to their holding such land as an endowment or charitable gift *by way of investment*, or, possibly, under s. 59 for use for a purpose relating to the hospital service otherwise than one for which the Minister is responsible for finding the money to meet the annual expenditure. Otherwise a hospital authority, by accepting land or buildings for use as part of the hospital, could impose a financial burden of maintenance on public funds contrary to the provisions of s. 54 of the Act.

It is significantly in support of the view here expressed that in reg. 4 of the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948, where the functions of regional hospital boards

[1] Commentator's headnote in brackets.

are outlined it is expressly provided that " nothing in these regulations shall authorise a regional hospital board to acquire land for the purpose of providing hospital and specialist services." There is in reg. 7 a similar proviso as to boards of governors of teaching hospitals. If land were properly held as an investment it is possible that the hospital authority would be running counter either to the proviso to s. 4 or to s. 7, as the case might be, if, without the consent of the Minister, it turned the land over to use in providing hospital and specialist services. Hospital management committees, being subordinate to regional hospital boards, the proviso to reg. 4 applies equally to them.

The bodies named, being statutory corporations with a common seal, it follows that, except so far as regulations made under paragraph 2 (*d*) of this part may otherwise provide, they can enter into contracts in the same way as corporations generally.

It would not appear that a hospital authority under the Act will be able to borrow against security in respect of its main functions. It might, however, obtain unsecured overdrafts or loans in anticipation of moneys to be received from the Treasury. Presumably, it would be for the lender to assure himself that the advance was being made for a proper purpose.

As charitable trustees, a hospital authority will apparently be able to raise money against the security of charity assets in all cases in which it is appropriate for charitable trustees generally to do so. Hence an obligation on prospective lenders against security to consider the capacity in which the authority is acting when raising a loan, especially a secured loan and whether the security offered may be so pledged.

In general terms, it may be said that corporations, although in earlier times they were obliged to contract under seal in all but the most trifling matters, may now contract under hand of appropriate officers in all day to day matters. For precise information refer to standard works on contract and on corporations.

2. Regulations may make provision—

(*a*) with respect to the appointment, tenure of office and vacation of office of the members of the bodies constituted under the foregoing provisions of this Schedule ;

See the National Health Service (Regional Hospital Boards, etc.) Regulations, 1947, reg. 3.

(*b*) with respect to the appointment of committees consisting wholly or partly of members of those bodies and the delegation of functions to such committees ;

See National Health Service (Regional Hospital Boards, etc.) Regulations, 1947, reg. 4. By reg. 4 (i), delegation of functions by regional hospital boards, boards of governors and management committees is not only permissive, but is obligatory if so directed by the Minister, and, in the case of a management committee, alternatively if directed by the hospital board. Reg. 4 (ii) provides for making rules of procedure for sub-committees.

(*c*) for the making of such payments as may be prescribed to members of those bodies or committees in respect of any loss of remunerative time or, if the special circumstances of the body or committee concerned appear to the Minister to justify it, in respect of any travelling or subsistence expenses ;

See the National Health Service (Travelling Allowances, etc.) Regulations, 1947, regs. 3 and 5 and Schedule, as to payment for loss of remunerative time, travelling and subsistence expenses.

(*d*) with respect to the procedure of those bodies or committees.

See the National Health Service (Regional Hospital Boards, etc.) Regulations, 1947, reg. 5 and Schedule, which must be read together with paragraphs 3 and 4 of the Third Schedule of the Act, the former providing that neither any vacancy nor any defect in appointment or qualification of any member shall invalidate proceedings, whilst the latter preserves right of members and officers to be elected to Parliament. But, although any vacancy will not of itself invalidate proceedings, it appears that as by paragraph 7 of the Schedule to the Regulations quoted, business may be transacted only if at least one-fourth of the *whole number of* members are present, it would seem that resignation of more than three-quarters of the membership would prevent any business being validly transacted until the numbers were raised by new appointments to a figure which permitted the requisite quorum.

3. The proceedings of any body or committee constituted under the foregoing provisions of this Schedule shall not be invalidated by any vacancy in the membership of the body or committee or by any defect in the appointment or qualification of any member thereof.

4. It is hereby declared, for the avoidance of doubt, that a member or officer of any such body or committee is not, by reason of his membership or office, rendered incapable of being elected, or of sitting and voting, as a Member of the House of Commons.

Section 19 FOURTH SCHEDULE

PROVISIONS AS TO LOCAL HEALTH AUTHORITIES

PART I

Joint Boards

1. A joint board constituted under section nineteen of this Act shall be a body corporate with perpetual succession and a common seal and power to hold land without licence in mortmain.

2. An order constituting such a joint board—

(*a*) may, without prejudice to the provisions of section two hundred and ninety-three of the Local Government Act, 1933, and section one hundred and ninety-six of the London Government Act, 1939[1] (which authorise the application of the provisions of those Acts to joint boards), provide for regulating the appointment, tenure of office and vacation of office of members of the board, for regulating the meetings and proceedings of the board, and for the payment of the expenses of the board by the constituent local health authorities ;

(*b*) may provide for the transfer and compensation of officers, the transfer of property and liabilities, and the adjustment of accounts and the apportionment of liabilities ;

(*c*) may confer on the board the like powers for the compulsory purchase of land as are exercisable by local health authorities ;

(*d*) may provide for the application, with such adaptations as may be specified, of any enactments relating to functions transferred to the board ;

(*e*) may contain such other provisions as appear to the Minister to be expedient for enabling the board to exercise their functions ;

(*f*) may apply to the board, with any necessary modifications and adaptations, any of the provisions of Part II of this Schedule.

Paragraph 1, besides making joint boards statutory corporations, confers on them power to hold land without licence in mortmain. Since, however, their functions are limited by statute, it would appear that they could not either purchase or accept land by way of gift for any other purpose (*e.g.*, as charitable trustees). Compulsory acquisition of land is covered by s. 58 if expressly extended to a joint board by order constituting it (paragraph 2 (*c*) of the Schedule).

Exemption of members and officers from personal liability in respect of acts of and on behalf of joint boards is not to be inferred from the corporate status, but is expressly provided for by s. 72 of the Act, read in conjunction with s. 265 of the Public Health Act, 1875. Liability to surcharge by the auditors is preserved.

It appears that, although a joint board may be entrusted with any or all of the functions of the constituent local health authorities, it does not thereby become a local health authority as defined in s. 19 (1) of the Act. Hence, its powers and duties will be settled in the order, as outlined in paragraph 2 of the

[1] 2 & 3 Geo. 6, c. 40.

Schedule, especially heads (*c*) to (*f*) inclusive. It seems, therefore, that such provisions in the Act as s. 72, relating to exemption of members and officers from personal liability, will apply only if so expressly provided in the order.

Not being a local health authority, a joint board will not be obliged to appoint a health committee under Part II of the Schedule, though by the order constituting it, and under paragraph 2 (*f*) of Part I, the whole of Part II may, with any necessary modifications, apply to a joint board.

Part II

Health Committees

1. Every local health authority shall establish a health committee, and, subject to the next following paragraph, all matters relating to the discharge of the functions of a local health authority shall stand referred to the health committee, and the authority, before exercising any such functions, shall consider a report of the health committee with respect thereto :

Provided that an authority may dispense with such a report if, in their opinion, the matter is urgent or has been sufficiently considered and reported upon by a divisional executive established under section twenty-two of this Act.

2. The last foregoing paragraph shall not prevent the council of a county or county borough from referring to any committee appointed by them any matter arising out of, and incidental to, their functions as local health authority which, by reason that it relates also to a general service of the council, ought, in the opinion of the council, to be so referred, and the last foregoing paragraph shall not apply to any matter which is so referred :

Provided that, before deciding on a proposal for a reference under this paragraph, the council shall receive and consider a report of the health committee on the proposal.

3. A local health authority may authorise the health committee to exercise on their behalf any of their functions as a local health authority, except the power to borrow money or to levy or issue a precept for a rate.

4. At least a majority of the health committee of a local health authority shall be members of the authority.

5. The minutes of proceedings of the health committee shall be open to the inspection of any local government elector for the area on payment of a fee not exceeding one shilling and any such local government elector may make a copy thereof or extract therefrom.

6. The health committee of a local health authority may, subject to any restrictions imposed by the local health authority, establish,

such sub-committees as the health committee may determine, and any sub-commitee established under this paragraph shall be constituted in such manner as may, subject to any restrictions imposed by the local health authority, be determined by the health committee, and at least a majority of every sub-committee shall be members of the local health authority or of a local authority for any area forming part of the area of the local health authority.

7. The health committee of a local health authority may, subject to any restrictions imposed by the local health authority, authorise any sub-committee to exercise on their behalf any functions of the health committee.

This part of the Schedule is operative by virtue of s. 19 (3) of the Act. See also Part I, paragraph 2 (*f*) as to application to joint boards. It appears that a local health authority is under the obligation to appoint a health committee, even though the whole of its functions as a local health authority may by order under s. 19 (2) have been transferred to a joint board. It follows, however, that so far as functions may by order have been transferred to a joint board, a local health authority could not effectively delegate them to a health committee under paragraph 3 of this part of the Schedule.

In paragraph 2 of this Part of the Schedule the words "*the Council of the Isles of Scilly*" are substituted for the words "*the council of a county or county borough*," in its application to the Isles of Scilly.[1]

Sections, 31, 40, 41 FIFTH SCHEDULE

EXECUTIVE COUNCILS

Constitution of Executive Councils

1. An Executive Council shall consist of a chairman appointed by the Minister and twenty-four other members of whom—

(*a*) eight members shall be appointed by the local health authority for the area of the Executive Council;

(*b*) four members shall be appointed by the Minister;

(*c*) seven members shall be appointed by the Local Medical Committee;

(*d*) three members shall be appointed by the Local Dental Committee;

(*e*) two members shall be appointed by the Local Pharmaceutical Committee.

When a single executive council is constituted for the area of two or more local health authorities, the members to be appointed by the local health authority under this paragraph

[1] Isles of Scilly (National Health Service) Order, 1948, S. I. 1948, No. 167.

will be appointed by the several authorities concerned in such proportions as the order made under s. 31 (2) of the Act may provide.

As to committees making appointments under heads (*c*) to (*e*), see s. 32 of the Act.

For titles of orders for constituting single executive councils for the areas of more than one authority made at time of paging this work, see note to s. 31.

Supplementary Provisions

2. Every Executive Council shall be a body corporate with perpetual succession and a common seal and with power to hold land without licence in mortmain :

Provided that an Executive Council shall not acquire land except with the consent of the Minister.

The provisions of s. 72 as to exemption of members and officers from personal liability in respect of official acts apply to Executive Councils, and consequently to any committee properly appointed by an executive council. It does not, however, appear from the wording of s. 41 (2) of the Act that an Ophthalmic Services Committee is a committee of the Executive Council for the area for which it is appointed, although it is to exercise functions on behalf of that council, since it is simply referred to as " to be constituted for the area of the Council " and not " by the Council." Hence s. 72 of the Act would not apparently apply to such a committee.

It is to be observed, however, that reg. 17 of the National Health Service (Executive Council) Regulations, 1947, put the requirement in the form " the Council [1] shall appoint an Ophthalmic Services Committee," which if that were in fact what was to be done would make it a committee of the said Council and so within s. 72 of the Act, but in fact reg. 18 expressly provides for appointment of a certain proportion of the members by organisations other than the Council. That an Ophthalmic Services Committee is not a committee of the Executive Council is further borne out by the provision in s. 41 (2) of the Act that " regulations may make provision in relation to the Ophthalmic Services Committee, for any of the matters for which, in relation to an Executive Council, provision is or may be made under the supplementary provisions of the Fifth Schedule to the Act." Were an Ophthalmic Services Committee a committee of the Executive Council it would already be covered by paragraph 3 (*b*) of the Schedule. Also reg. 3 of the National Health Service (Travelling Allowances, etc.) Regulations, 1947, differentiates the Ophthalmic Services Committee from a committee of the Executive Council.

Although an Executive Council is a statutory body corporate, its powers are strictly defined by the Act. Notably, although it has power to hold land without licence in mortmain, it is expressly forbidden to acquire land except with the consent of the Minister, and this clearly extends to land howsoever acquired whether by gift or purchase.

An Executive Council has no borrowing powers.

[1] *I.e.*, the Executive Council for the area concerned.

3. The Minister may make regulations—

(*a*) with respect to the appointment, tenure of office and vacation of office of the members of an Executive Council;

See the National Health Service (Executive Councils) Regulations, 1947, regs. 3–9, inclusive.

(*b*) with respect to the appointment of committees consisting wholly or partly of members of the Council and the delegation of functions to such committees;

See the National Health Service (Executive Councils) Regulations, 1947, regs. 13–15, inclusive. It is to be noted that by reg. 15 committees such as the Ophthalmic Services Committee are not (except so far as they may have been applied) subject to regs. 13 and 14. Further as to the Ophthalmic Services Committee, see Part III of the regulations and notes to paragraph 2.

(*c*) for the making of such payments as may be prescribed to members of the Council or any such committee in respect of any loss of remunerative time or, if the special circumstances of the area of the Council appear to the Minister to justify it, in respect of any travelling or subsistence expenses;

See the National Health Service (Travelling Allowances, etc.) Regulations, 1947, regs. 3 and 5 and Schedule.

(*d*) with respect to the appointment of officers of the Council;

See the National Health Service (Executive Council) Regulations, 1947, reg. 12, and as regards ophthalmic services committee, reg. 21.

(*e*) for payment by an Executive Council of sums, not exceeding such sums as may be prescribed, as subscriptions to the funds of any association of Executive Councils whose objects are approved by the Minister, and for the payment at the prescribed rates of any expenses reasonably incurred by representatives in attending meetings of any such association;

See National Health Service (Executive Council) Regulations, 1947, reg. 25.

(*f*) with respect to the procedure of the Council or any such committee.

See National Health Service (Executive Council) Regulations, 1947, Part II, regs. 10–16, and, as regards an Ophthalmic Services Committee, regs. 23 and 24.

Application of Supplementary Provisions of Fifth Schedule to Dental Estimates Board

By virtue of s. 40 (2) (*e*) of the Act the Minister may make regulations, as under paragraph 3 of the Schedule, in respect of the Dental Estimates Board and also for remuneration of members of the Board. See further note to section quoted. He may also, if he sees fit, by regulation declare it a body corporate with perpetual succession and a common seal, and make provisions similar to those applicable to Executive Councils as to its holding land.

As to remuneration, travelling expenses and subsistence allowances of members of Dental Estimates Board, see National Health Service (Travelling Allowances, etc.) Regulations, 1947, regs. 4 (1) and 5 and Parts II and III of the Schedule.

4. If the Local Medical Committee, the Local Dental Committee or the Local Pharmaceutical Committee fail within such period as the Minister may determine to appoint any member of the Executive Council whom they are required to appoint, the appointment shall be made by the Minister.

5. The proceedings of an Executive Council or any such committee shall not be invalidated by any vacancy in the membership of the Council or committee or by any defect in the appointment or qualification of any member thereof.

6. It is hereby declared, for the avoidance of doubt, that a member or officer of any such Council or committee is not, by reason of his membership or office, rendered incapable of being elected, or of sitting and voting, as a Member of the House of Commons.

Section 34 SIXTH SCHEDULE

MEDICAL PRACTICES COMMITTEE

1. The Medical Practices Committee shall consist of a chairman, who shall be a medical practitioner, and eight other members of whom six shall be medical practitioners. Of the said six medical practitioners at least five shall be persons actively engaged in medical practice.

2. The chairman and members shall be appointed by the Minister after consultation with such organisations as the Minister may recognise as representative of the medical profession.

3. The Minister may make regulations—

(*a*) with respect to the appointment, tenure of office and vacation of office of the members of the Committee ;

(*b*) for the payment to members of the Committee of remuneration or travelling and subsistence allowances at the prescribed rates.

4. The Minister may provide the services of such officers as the Committee may require.

5. The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment or qualification of any member thereof.

See further as to Medical Practices Committee, s. 34 of the Act.

Matters within paragraph 3 (*a*) are dealt with in Part III of the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, and within 3 (*b*) in the National Health Service (Travelling Allowances, etc.) Regulations, 1947, regs. 4 and 5 and Parts II and III of the Schedule thereto.

Section 42

SEVENTH SCHEDULE

Constitution of Tribunal

1. The Tribunal shall consist of a chairman and two other members.

2. The chairman shall be a practising barrister or solicitor of not less than ten years' standing appointed by the Lord Chancellor.

3. One of the other members shall be a person appointed by the Minister after consultation with such associations of Executive Councils as the Minister may recognise as representative of Executive Councils.

4. The other member (hereinafter referred to as the " practitioner member ") shall be one of a panel of six persons who shall be appointed by the Minister, after consultation with such organisations as the Minister may recognise as representative of the several professions concerned, and shall consist of a medical practitioner, a dental practitioner, a registered pharmacist, a medical practitioner practising as an oculist, an ophthalmic optician and a dispensing optician, and the practitioner member shall, for the purpose of the investigation of the case of any person, be such one of the six persons aforesaid as belongs to the same profession as the person whose case is being investigated.

A medical practitioner practising as an oculist must, for the purposes of Part IV of the Act and of paragraph 4 of this Schedule, have the prescribed qualifications (s. 41), as must an ophthalmic optician and a dispensing optician (s. 79). The prescribed qualifications are set out in the National Health Service (Executive Councils) Regulations, 1947, reg. 19.

5. If any of the members of the Tribunal is unable to act in any case, a deputy may be appointed in like manner and after the like consultations as in the case of the appointment of the member in

question and, if the member was required to possess professional qualifications, the deputy shall possess the like qualifications.

Supplementary Provisions

6. Regulations may make provision—

(*a*) with respect to the appointment, tenure of office and vacation of office of members of the Tribunal ;

(*b*) for the payment to members of the Tribunal of remuneration or subsistence allowances and travelling allowances at the prescribed rates ;

(*c*) with respect to the appointment of officers of the Tribunal.

Further as to the Tribunal and its functions, see s. 42 of the Act.

Matters falling within paragraph 6 (*b*) in the National Health Service (Travelling Allowances, etc.) Regulations, 1947, regs. 4 and 5 and Parts II and III of Schedule thereto. As to 6 (*a*) and 6 (*c*) *see* the National Health Service (Service Committees and Tribunal) Regulations, 1948, regs. 23 and 24.

Section 49 EIGHTH SCHEDULE

ENACTMENTS RELATING TO FUNCTIONS TRANSFERRED FROM BOARD OF CONTROL TO MINISTER

The Lunacy Act, 1890

Subsection (6) of section thirty-nine.

Subsection (4) of section fifty-one.

Subsection (3) of section two hundred and four.

The whole of Part VIII of the Lunacy Act, 1890, except section two hundred and twenty-one, so far as it relates to the power of the Board of Control to recommend the revocation or non-renewal of a licence, and sections two hundred and twenty-three and two hundred and twenty-eight.

Subsection (4) of section three hundred and thirty-two.

The Lunacy Act, 1891[1]

Section twelve.

The Mental Deficiency Act, 1913

Subsection (1) of section three.

Subsection (2) of section five.

[1] 54 & 55 Vict. c. 65.

Subsection (3) of section sixteen.
Section twenty-one.
Paragraphs (*b*), (*c*), so far as it relates to certification and approval, and (*f*) of subsection (1) of section twenty-five.
Paragraph (*h*) of section thirty.
Section thirty-six.
Subsection (1) of section forty-nine.
Subsection (1) of section fifty.
Section fifty-eight.

The Mental Treatment Act, 1930

Subsection (1) and paragraph (*a*) of subsection (3) of section one.
Paragraph (iii) of subsection (1) and subsections (3), (9) and (17) of section five.

Sect. 49 and this Schedule became operative on 1st July, 1947, by virtue of the National Health Service (Appointed Day) Order, 1947.

Sections 49, 50 NINTH SCHEDULE

AMENDMENT AND REPEAL OF ENACTMENTS RELATING TO PERSONS OF UNSOUND MIND AND MENTAL DEFECTIVES

Refer over to s. 49 (5) and s. 50 (1) as to amendments in Part I of Schedule, and as to repeals in Part II to s. 50 (1).
Those amendments and repeals (other than the headnotes) here shown in italics became effective on 1st July, 1947, under the National Health Service (Appointed Day) Order, 1947, the remainder come into operation on 5th July, 1948, by virtue of the National Health Service (Appointed Day) Order, 1948.

PART I

AMENDMENTS

General Amendments

In all enactments relating to persons of unsound mind and mental defectives and in any documents issued thereunder references to a mental hospital shall be construed as references to a hospital vested in the Minister and designated by him as a mental hospital.

The Criminal Lunatics Act, 1884

47 & 48 Vict. c. 64

In subsection (2) of section seven for the words " asylum or place of confinement for persons of unsound mind " there shall be substituted the words " mental hospital " ; for the words " and he shall

be deemed to be a rate-aided person of unsound mind " there shall be substituted the words " and shall be deemed, for the purposes of the Lunacy and Mental Treatment Acts, 1890 to 1930, as amended by the National Health Service Act, 1946, to be a summary reception order made under section sixteen of the Lunacy Act, 1890, as so amended."

In section eight, for subsection (2) there shall be substituted the following subsection :—

> " (2) If it is certified by a legally qualified medical practitioner that a criminal lunatic, who is about to be absolutely discharged or whose term of penal servitude or imprisonment is about to determine, is of unsound mind and unfit for removal to a mental hospital, an order made by a justice under this Act may provide for his detention in any asylum or place in which a criminal lunatic may be detained and he shall be deemed to have been sent to that asylum or place in pursuance of a summary reception order made under section sixteen of the Lunacy Act, 1890, as amended by the National Health Service Act, 1946, and the Lunacy and Mental Treatment Acts, 1890 to 1930, as amended by the National Health Service Act, 1946, shall apply as if the asylum or place were a mental hospital, and the council of supervision or other person having control thereof were a Hospital Management Committee."

For subsection (3) of the said section there shall be substituted the following subsection—

> " (3) In any case where a person for whose detention an order has been made under the last foregoing section is ordinarily resident in Scotland or Northern Ireland, the justice making the order shall report the case to a Secretary of State, thereupon a Secretary of State may, by warrant, direct the removal of such person to Scotland or Northern Ireland, as the case may be."

In section nine, in paragraphs (1) and (3) for the words " committee of visitors," there shall be substituted the words " Hospital Management Committee," and the words in paragraph (3) from " and the costs " to the end of the paragraph shall be omitted.

In section ten, in subsection (1), the words from " and the costs of maintenance " to the end of the subsection shall be omitted ; and in subsection (3), the words from the beginning of the subsection to " is detained " shall be omitted.

The Lunacy Act, 1890

53 & 54 Vict. c. 5

Throughout the Act, subject to any specific amendment made by a subsequent provision of this Schedule, for references to the visitors of a mental hospital and the visiting committee of a mental hospital there shall be substituted respectively references to members of the Hospital Management Committee of a mental hospital and to such a Committee.

Throughout the Act, subject to any specific amendment made by a subsequent provision of this Schedule, the word "rate-aided" shall be omitted.

In section four the words "a rate-aided person or" shall be omitted.

In section eight, in subsection (1), the words "as a private patient" shall be omitted.

For sections fourteen and fifteen, there shall be substituted the following sections :—

"14.—(1) If a duly authorised officer of the local health authority—

(*a*) has reasonable ground for believing that a person in the area of the authority is a person of unsound mind and a proper person to be sent to a mental hospital ; and

(*b*) is satisfied that he is not under proper care and control, or that there are no relatives or friends who intend and are able to take proceedings by petition for a reception order under the foregoing provisions of this Act ;

he shall, within three days, give notice thereof to a justice having jurisdiction in the place where the said person is.

(2) A justice, upon receiving such a notice, shall by order require the officer giving the notice to bring the said person before him or some other justice having such jurisdiction as aforesaid, at such time within three days of the receipt of the notice and at such place as may be specified in the order.

15.—(1) A duly authorised officer of the local health authority or any constable who has reasonable ground for believing that any person wandering at large in the area of the authority is a person of unsound mind, shall immediately apprehend and take the said person, or cause him to be apprehended and be taken, before a justice.

(2) Any justice, upon the information upon oath of any

person that a person wandering at large within the limits of his jurisdiction is of unsound mind, may by order require any constable or duly authorised officer of the local health authority for the area where the said person is, to apprehend him and bring him before the justice making the order, or any justice having jurisdiction where the said person is."

In section sixteen for the words "relieving officer, overseer" there shall be substituted the word "officer."

In section seventeen the words "whether a rate-aided person or not" shall be omitted.

For section twenty there shall be substituted the following section :—

"20. If a duly authorised officer of the local health authority or any constable is satisfied that it is necessary for the public safety or the welfare of a person alleged to be of unsound mind with regard to whom it is his duty to take any proceedings under this Act, that the said person should, before any such proceedings are taken, be placed under care and control, the officer or constable may remove the said person to any hospital or part of a hospital vested in the Minister (whether a mental hospital or not) which is designated by the Minister for the purposes of this section, and the person in charge of the said hospital or part shall receive and detain the said person therein, but no person shall be detained under this section for more than three days."

In section twenty-one, in subsection (1), for the words "the workhouse of the union in which the person of unsound mind is" there shall be substituted the word "any hospital or part of a hospital designated for the purposes of the last foregoing section" and for the words "in that workhouse" there shall be substituted the word "therein"; and in subsection (3) the words "in a workhouse" and the words from "after which" to the end of the subsection shall be omitted.

After section twenty-one the following section shall be inserted :—

"21A. Where any person is detained, whether under section twenty of this Act or under the last foregoing section, in any hospital designated for the purposes of the said section twenty, and while he is so detained the medical officer of the hospital certifies that he is of unsound mind and that it is expedient for his welfare that he should be detained at the hospital for a further period he may be so detained for a period not exceeding fourteen days from the date of the certificate."

In section thirty-four, in subsection (1) for the words " a private patient " there shall be substituted the words " an order made on petition."

In section thirty-six, for the word " workhouse " there shall be substituted the words " hospital or part of a hospital designated for the purposes of section twenty of this act."

In section thirty-nine, in subsection (1) for the words " reception of a private patient " there shall be substituted the words " reception of a patient under a reception order made on petition " ; *in subsection* (3) *for the words " their immediate jurisdiction " there shall be substituted the words " the immediate jurisdiction of the Minister " ; in subsection* (6) *for the words " Board of Control " where they first occur, there shall be substituted the word " Minister," and for the words from " they think fit " to the end of the subsection there shall be substituted the words " the Minister thinks fit " ;* and in subsections (7) and (8) the word " private " shall be omitted.

In section forty, in subsection (3), for the word " workhouse " there shall be substituted the words " hospital or part of a hospital designated for the purposes of section twenty of this Act."

In section forty-one, in subsection (1), the words " if written by a private patient " shall be omitted.

In section forty-two, in subsection (1) the words " unless there is no private patient therein," and the word " private," in the second and third places where it occurs in subsection (1) and where it occurs in subsection (2) shall be omitted.

In section fifty-one, in subsection (4) *for the words " Board of Control or visitors fix " there shall be substituted the words " Minister may fix."*

In section fifty-five, in subsection (2) for the word " charge " there shall be substituted the words " expense of his maintenance " ; in subsection (3) the word " private," where it last occurs, shall be omitted ; and for subsection (6) there shall be substituted the following subsection :—

> " (6) Where any patient detained in a registered hospital in pursuance of a contract with a Regional Hospital Board is permitted under this section to be absent upon trial, two members of the managing committee of the hospital may make an allowance to the patient during the period of his absence not exceeding the amount payable under the contract for his maintenance in the hospital and the allowance shall either be paid to him or for his benefit as the members of the managing committee may direct."

In section fifty-seven, in subsection (1) the words from " the

application has been approved " to " and that " shall be omitted ; and in subsection (2) for the words " the authority liable for the maintenance of the person of unsound mind " there shall be substituted the words " the Hospital Management Committee," after the word " shall " there shall be inserted the words " if the Committee considers it reasonable so to do," and for the words from " such authority " to " delivered over " there shall be substituted the words " the Committee."

For section sixty-one there shall be substituted the following section :—

" 61. Where a patient is detained in a registered hospital in pursuance of a contract with a Regional Hospital Board, the Board may make an order for the removal of the patient and may direct the mode of removal and on production to the manager of the hospital of a copy of the order he shall forthwith remove the patient or permit him to be removed in accordance with the order."

For section sixty-four there shall be substituted the following section :—

" 64. Any two members of the Hospital Management Committee of a mental hospital may by order authorise the removal of a person of unsound mind to that hospital from any other mental hospital."

In section sixty-six for the words from " relieving officer " to " chargeable " there shall be substituted the words " the local health authority for the area where the mental hospital is situated."

For section seventy-two, the following section shall be substituted :—

" 72.—(1) A patient detained in any institution for persons of unsound mind, or under care as a single patient, shall, if he is detained under a reception order made on petition, be discharged on a direction in writing given under his hand—

(*a*) by the person on whose petition the order was made ; or

(*b*) if that person is dead or incapable by reason of insanity, absence from England and Wales or otherwise of signing an order for discharge, by the person who made the last payment on account of the patient, or by the appropriate relative.

(2) A private patient detained in any such institution or under such care as aforesaid, other than a person to whom the

last foregoing subsection applies, shall be discharged on a direction in writing under his hand by the person who made the last payment on account of the patient or by the appropriate relative.

(3) In any other case a patient detained in any such institution or under such care as aforesaid shall be discharged on a direction in writing given under his hand by the appropriate relative.

(4) If there is no person qualified to direct the discharge of a patient under this section, or no person able or willing to act, the Board of Control may order his discharge.

(5) In this section the expression "appropriate relative" means the husband or wife, or if there is no husband or wife, or the husband or wife is incapable by reason of insanity, absence from England and Wales, or otherwise of signing an order for discharge, the father, or if there is no father, or if he is incapable as aforesaid, the mother, or if there is no mother, or she is incapable as aforesaid, then any one of the next of kin."

For section seventy-three there shall be substituted the following section :—

"73. Where any patient is detained in a registered hospital in pursuance of a contract with a Regional Hospital Board, the Board may make an order for the discharge of the patient and may direct the mode of discharge, and on production to the manager of the hospital of a copy of the order he shall forthwith discharge the patient or permit him to be discharged in accordance with the order."

In section seventy-eight, in subsection (4), the words "in the case of a private patient," and "and in the case of a rate-aided person to the authority liable for his maintenance" shall be omitted.

In section seventy-nine the words "shall be no longer chargeable to any union, county or borough, and" shall be omitted.

In section eighty, in subsection (1) for the words from "a relieving officer" to the end of the subsection there shall be substituted the words "the local health authority."

In section eighty-three, in subsection (1) the words "in the case of a patient not a rate-aided person" and the words from "and in the case of" to the end of the subsection shall be omitted.

In section eighty-five for the words "master of the workhouse," there shall be substituted the words "person in charge of the hospital or part of the hospital designated for the purposes of section twenty of this Act" and the word "master," in the second place where it occurs, shall be omitted.

In section one hundred and seventy-seven, in subsection (1), *for the words "Board of Control" there shall be substituted the word "Minister."*

In section one hundred and ninety-one, in subsections (2) *and* (3), *for the words "the immediate jurisdiction of the Board of Control" there shall be substituted the words "the immediate jurisdiction of the Minister"; and in paragraph* (*b*) *of subsection* (7) *for the words "Board of Control" there shall be substituted the word "Minister,"* and the words "and not receiving rate-aided patients" shall be omitted.

In section one hundred and ninety-six, in subsection (1) the words "rate-aided patients from other patients, and" shall be omitted.

In section two hundred and three for the word "workhouses" there shall be substituted the words "hospitals or parts of hospitals designated for the purposes of section twenty of this Act."

In section two hundred and four, in subsection (1) the words "or workhouse" shall be omitted; *and in subsection* (3) *for the words "Board of Control" there shall be substituted the word "Minister."*

In section two hundred and six, in subsection (3) the words from "and the expenses" to the end of the subsection shall be omitted.

Throughout Part VIII, except in sections two hundred and twenty-one, two hundred and twenty-three and two hundred and twenty-eight, for references to the Board of Control there shall be substituted references to the Minister.

In section two hundred and seventeen, in subsection (1) *the words "the secretary of"* and the words from "not being a rate-aided person" to the end of the subsection *shall be omitted;* and in subsection (2) the words "and two shillings and sixpence" shall be omitted.

In section two hundred and nineteen, the word "private," and the words "and to the authority liable for the maintenance of each rate-aided patient" shall be omitted.

In section two hundred and twenty-one, in subsection (1) *the words "either by them or" and the words "if granted by any justices" shall be omitted, and after the word "renewed" there shall be inserted the words "or recommend to the Minister that any licence granted by him be revoked or be not renewed" and after the words "Lord Chancellor," where they last occur, there shall be inserted the words "or Minister"; and in subsection* (4) *after the words "Lord Chancellor" in both places where they occur there shall be inserted the words "or Minister."*

In section two hundred and twenty-six, the words "by their secretary" shall be omitted.

In section two hundred and thirty-one, in subsection (1), *the words "may depute any one or more members of their body, or" shall be omitted.*

In section two hundred and thirty-seven, in subsection (3) *the words "with the consent in writing of the Minister of Health" and in subsection* (5) *the words from "and such statement" to the end of the subsection shall be omitted.*

In section two hundred and fifty-eight, in subsection (1), for the words "visiting committee of a mental hospital" there shall be substituted the word "Minister" and the words "with the consent of the local authority by whom they are appointed and of the Minister of Health" shall be omitted; in subsection (2) for the word "committee" there shall be substituted the word "Minister"; and in subsection (3) for the words "a visiting committee" and "the committee" there shall be substituted the words "the Minister."

In section two hundred and fifty-nine, for the words "a visiting committee" and "the visiting committee" there shall be substituted the words "the Regional Hospital Board."

In section two hundred and seventy-five, for subsection (5) there shall be substituted the following subsection:—

"(5) Any patient in a mental hospital may be absent by permission of the manager for a period not exceeding four days."

In section two hundred and eighty-five, in subsection (1), the words "whether a rate-aided person or not" shall be omitted, for the words "guardians of the union" there shall be substituted the words "local health authority," for the word "workhouse" there shall be substituted the words "hospital or part of a hospital designated for the purposes of section twenty of this Act," and the words from "and also" to "effect" shall be omitted.

In section three hundred and fifteen, in subsection (2) for the word "workhouse" there shall be substituted the words "hospital or part of a hospital designated for the purposes of section twenty of this Act."

In section three hundred and twenty, after the words "sending to" there shall be inserted the words "the Minister."

In section three hundred and twenty-four, for the word "workhouse" there shall be substituted the words "hospital or part of a hospital designated for the purposes of section twenty of this Act."

In section three hundred and twenty-five, in subsection (1), for paragraph (*c*) there shall be substituted the following paragraph:—

"(*c*) by the secretary of a Regional Hospital Board for an offence by any person employed by the Board."

In section three hundred and twenty-six, for paragraph (*c*) there shall be substituted the following paragraph :—

"(*c*) When recovered by the secretary of a Regional Hospital Board, to the treasurer of the Board."

In section three hundred and twenty-seven, the words "other than orders adjudicating as to the settlement of a rate-aided person of unsound mind and providing for his maintenance," shall be omitted.

In section three hundred and twenty-nine, *after the words "Board of Control," in both places where they occur, there shall be inserted the words "or the Minister"* and for the word "guardians," in both places where they occur, there shall be substituted the words "a local health authority."

In section three hundred and thirty-two, for subsection (4) *the following subsection shall be substituted :—*

"(4) *Where any Commissioners or visitors summon a person to appear and give evidence, all reasonable expenses of his appearance and attendance shall be paid by the Minister.*"

In section three hundred and thirty-eight, in subsection (1) *for the words "with the approval of the Lord Chancellor" there shall be substituted the words "with the approval of the Minister and the concurrence of the Lord Chancellor."*

In section three hundred and forty-one for the definition of "mental hospital" there shall be substituted the following definition :—

"'mental hospital' means a hospital vested in the Minister and designated by him as a mental hospital";

and after the said definition there shall be inserted the following definition :—

"'*the Minister*' *means the Minister of Health*";

in the definition of "clerk" for the words "local authority," wherever they occur, there shall be substituted the words "local health authority," the definitions of "district mental hospital," "rate-aided person," "visiting committee" and "workhouse" shall be omitted, for the definition of "private patient" there shall be substituted the following definition :—

"'private patient' means a patient maintained wholly or partly at the expense of some person other than the Minister";

and in the definition of "reception order," the words "whether a rate-aided person or not," shall be omitted.

The Lunacy Act, 1891

54 & 55 Vict. c. 65

In section two, in subsection (1), for the words " relieving officer, or overseer " there shall be substituted the words " or officer of a local health authority."

In section twelve for the reference to the Board of Control there shall be substituted a reference to the Minister.

For section nineteen, the following section shall be substituted :—

" 19.—(1) Where a person of unsound mind can no longer be maintained in a registered hospital or licensed house, the manager of the hospital or house may after giving notice to the local health authority apply to a justice having jurisdiction in the place where the hospital or house is situated for an order for the removal of the said person and the justice may order him to be removed to a mental hospital named in the order and the manager of the hospital or house shall cause him to be removed thereto. In the case of such removal the original reception order shall remain in force.

(2) The costs of obtaining an order under this section and of the removal of the person to whom it relates shall be paid to the said manager by the local health authority and the amount of those costs shall, in default of agreement, be determined by a justice having jurisdiction to make the order."

The Mental Deficiency Act, 1913

3 & 4 Geo. 5., c. 28

Throughout the Act, for references to the local authority or a local authority there shall be substituted references to the local health authority and a local health authority, respectively, and references to the managers of an institution shall, in relation to an institution vested in the Minister, be construed as references to the hospital management committee of the institution.

In section three, in subsection (1) *for the word " Board " there shall be substituted the words " Minister of Health."*

In section five, in subsection (2) *for the word " Board " there shall be substituted the words " Minister of Health."*

In section six, in subsection (3) the words " the managers of which are willing to receive him " shall be omitted.

In section seven, in subsection (2A) after the word " Board " there shall be inserted the words " or the Regional Hospital Board in whose area the institution is situated."

In section nine the words " the managers of which are willing to receive him " shall be omitted.

In section sixteen, at the end of subsection (2) there shall be added the words " The reference in this subsection to the managers of the institution for persons of unsound mind shall be construed, in the case of a mental hospital, as a reference to the Hospital Management Committee of that hospital " ; *and in subsection* (3), *for the words from the beginning of the subsection to " Minister of Health " there shall be substituted the words " The Minister of Health may."*

In section twenty-one for the words " Board of Control hereinafter constituted " there shall be substituted the words " Minister of Health."

In section twenty-three, in subsection (1) *the words " and other officers and servants," in both places where they occur, shall be omitted ; in subsection* (2) *after the word " secretary " there shall be inserted the word " and," and the words " and other officers and servants " shall be omitted ; and in subsection* (3) *after the word " secretary " there shall be inserted the word " and " and the words " officers and servants of the Board " shall be omitted.*

In section twenty-four, for the words " secretary, officer or servant " there shall be substituted the words " or secretary," and for the words " secretary or officer " there shall be substituted the words " or secretary."

The functions of the Board of Control under paragraph (*b*), *paragraph* (*c*), *so far as it relates to certification and approval, and paragraph* (*f*) *of subsection* (1) *of section twenty-five shall be exercised by the Minister, and in paragraph* (*g*) *for the words " Secretary of State " there shall be substituted the words " Minister of Health,"* and in subsection (2) the word " certified " wherever it qualifies the word " institution " shall be omitted.

In section twenty-six, after the word " Commissioners " there shall be inserted the words " the secretary and the inspectors," the words " and the officers " shall be omitted and the reference to the Minister of Health (*included by the Ministry of Health* (*Lunacy and Mental Deficiency*) *Transfer of Powers Order*, 1920) *shall be omitted.*

In section thirty, in paragraph (*cc*) the words " or have been sent to certified institutions " shall be omitted, in paragraph (*e*) the words " maintain in an institution or approved home or " and the words " the expenses of maintenance in an institution or approved home or "shall be omitted, in paragraph (*f*) the words " dying in an institution or " shall be omitted, *and in paragraph* (*h*) *for the word " Board " in both places where it occurs there shall be substituted the words " Minister of Health."*

In section thirty-six for the word " Board " there shall be substituted the words " Minister of Health."

In section forty-one, in subsection (1), for paragraph (*f*) there shall be substituted the following paragraph :—

"(*f*) the transfer of patients from one institution to another."

For subsection (1) of section forty-three shall be substituted the following subsection :—

"(1) where a person is ordered to be sent to an institution or to be placed under guardianship, the local health authority for the area in which he resided (to be specified in the order) shall provide for his conveyance to the institution or, as the case may be, shall make provision for his guardianship."

In subsections (2) and (3) for the word "council," wherever it occurs there shall be substituted the words "local health authority"; subsection (2) shall only apply to orders placing a person under guardianship; and in subsection (3) the words from the beginning to the words "other and," the word "certified" and the words "and his reception and maintenance in" shall be omitted.

In section forty-four, in subsection (2A) the word "certified" shall be omitted; and in sub-section (3) for the word "council" wherever it occurs, there shall be substituted the words "local health authority."

In section forty-six, in subsection (1) the words "not provided by a local authority," shall be omitted.

In sections forty-nine and fifty, for references to the Board of Control there shall be substituted references to the Minister of Health.

In section fifty-four, in subsection (1) after the word "authority" there shall be inserted the words "or a Regional Hospital Board."

In section fifty-eight, for the word "Board" there shall be substituted the words "Minister of Health."

In section seventy-one, in subsection (1) for the definitions of "institution" and "institution for defectives" there shall be substituted the following definitions :—

"The expressions 'institution' and 'institution for defectives' mean an institution for defectives vested in the Minister of Health and a certified institution";

the definitions of "State institution" and "board of guardians of a poor law union" shall be omitted; in the definition of "certified institution" the words from "and includes" to the end of the definition shall be omitted; *in the definition of "approved home" for the word "Board" there shall be substituted the words "Minister of Health";* and in the definition of "place of safety" the words "workhouse or" shall be omitted; and in subsection (3) for the words "a county" there shall be substituted the words "the area

of a local health authority," and for the words "the council of a county" there shall be substituted the words "a local health authority."

The Mental Deficiency Act, 1927

17 & 18 Geo. 5., c. 33

In section six, in subsection (1) for the words "local authority" there shall be substituted the words "Hospital Management Committee."

The Mental Treatment Act, 1930

20 & 21 Geo. 5., c. 23

Throughout the Act, for references to the local authority or a local authority there shall be substituted references to the local health authority or a local health authority;

In section one, for the references to the Board of Control there shall be substituted references to the Minister of Health;

In section two, in subsections (1) and (2) for the words "visiting committee" there shall be substituted the words "Hospital Management Committee";

In section five, in subsection (1) *for the words "maintained by a local authority" there shall be substituted the words "vested in the Minister of Health" and for the first reference to the Board of Control there shall be substituted a reference to the Minister of Health; in subsection* (3) *for the reference to the Board of Control there shall be substituted a reference to the Minister of Health;* and in subsections (6), (7) and (9) for the words "visiting committee" wherever they occur, there shall be substituted the words "Hospital Management Committee"; *in subsection* (9) *for the words "Board of Control," in the first place where they occur, there shall be substituted the words "Minister of Health"; and in subsection* (17) *for the words "Board of Control" there shall be substituted the words "Minister of Health" and for the words "Board think" there shall be substituted the words "Minister thinks."*

In section eleven, in subsection (1) *for the word "four" there shall be substituted the word "five"; and in subsection* (3) *after the word "two" there shall be inserted the words "or, if there are five senior commissioners other than the chairman, three";*

In section seventeen, in proviso (i), for the words "rate-aided person" there shall be substituted the words "patient other than a private patient."

In section twenty-one, in subsection (1) for the words "maintained by a local authority" there shall be substituted the words "vested in the Minister of Health and designated by him."

In the Third Schedule, in paragraph 2 the words "subsection (3) of section twenty-seven of the principal Act (which prescribes the mental hospitals into which rate-aided patients may be received)" shall be omitted; the words "sixty-nine" shall be omitted; for the words "that Act," where they first occur, there shall be substituted the words "the principal Act," and for the words from "Part X" to the word "maintenance" there shall be substituted the words "section two hundred and eighty-five of that Act (which relates to the payment of medical fees and other expenses)," and in paragraph 5 for the words "maintained by local authorities not being mental hospitals" there shall be substituted the words "vested in the Minister of Health and designated by him for the purposes of this Act," and for the words "from section two hundred and seventy-five" to the end of the paragraph there shall be substituted the words "subsection (5) of section two hundred and seventy-five of the principal Act (which relates to temporary absence) and section two hundred and seventy-seven of that Act (which relates to the duties of the chaplain)."

PART II

REPEALS OF ENACTMENTS RELATING TO PERSONS OF UNSOUND MIND AND MENTAL DEFECTIVES

Session and Chapter.	Short Title.	Extent of Repeal.
1 & 2 Vict. c. 14	The Criminal Lunatics Act, 1838.	The whole Act.
30 & 31 Vict. c. 106.	The Poor Law Amendment Act, 1867.	Section 23.
47 & 48 Vict. c. 64.	The Criminal Lunatics Act, 1884.	Subsection (1) of section 8, and paragraphs (2), (4) and (5) of section 9.
53 & 54 Vict. c. 5.	The Lunacy Act, 1890.	Sections 13, 18, 23 to 27, subsection (1) of section 37, subsection (5) of section 40, sections 52 and 54, sections 60, 65, 69, paragraph (*b*) of subsection (1) of section 76, subsection (2) of section 80, sections 81, 132, 169 to 176, 189, 190, 201, 202, subsection (4) of section 206, sections 238 to 257, 260 to 274, subsections (1) to (4) and (6) of section 275, sections 276, 278, 283, 284, subsection (2) of section 285 and sections 286 to 314.

Session and Chapter.	Short Title.	Extent of Repeal.
54 & 55 Vict. c. 65.	The Lunacy Act, 1891.	Subsection (2) of section 2, sections 3 to 6, 11, 13 to 18 and 22.
3 & 4 Geo. 5, c. 28.	The Mental Deficiency Act, 1913.	Sections 13, 14, subsection (3) of section 15, paragraph (*c*) of section 20, *paragraph (e) of subsection (1) of section 25*, sections 27, 28 and 29, paragraph (*c*) of section 30, sections 33 to *35*, 37 to 39, subsection (4) of section 44, proviso (*c*) to subsection (2) of section 49, sections 66, 70 and subsection (2) of section 71.
17 & 18 Geo. 5, c. 33.	The Mental Deficiency Act, 1927.	Subsection (2) of section 6, and sections 8 and 10.
20 & 21 Geo. 5, c. 23.	The Mental Treatment Act, 1930.	Sections 6 to 10, *12*, subsection (1) of section 14, proviso (ii) to section 17, sections 18, 19, sub-sections (1) and (2) of section 20, subsection (2) of section 21 and the Second Schedule.

Section 76 TENTH SCHEDULE

CONSEQUENTIAL AMENDMENTS AND REPEALS

Those amendments and repeals (other than the headnotes) here shown in italics became effective on 1st July, 1947, by virtue of the National Health Service (Appointed Day) Order, 1947, the remainder coming into operation on 5th July, 1948, by virtue of the National Health Service (Appointed Day) Order, 1948.

PART I

AMENDMENTS

The Poor Law Act, 1930

20 & 21 Geo. 5., c. 17

In section one hundred and three, in subsection (4), after the word "situate," there shall be inserted the words "or in a hospital vested in the Minister."

The Road Traffic Acts, 1930 *and* 1934

Subsection (2) of section thirty-six of the Road Traffic Act, 1930,[1] and section sixteen of the Road Traffic Act, 1934,[2] shall have effect as if any requirement therein for the payment of money to a hospital were construed, in the case of a hospital vested in the Minister, as requiring the payment to be made to the Regional Hospital Board for the area where the hospital is situated or, in the case of a teaching hospital, to the Board of Governors of the hospital; and section seventeen of the last-mentioned Act shall have effect accordingly.

The Yarmouth Naval Hospital Act, 1931

21 & 22 Geo. 5., c. 15

In section six for the words from the beginning to "that pay or pension" there shall be substituted the words "The pay or pension payable to any person detained in Yarmouth Hospital in pursuance of the provisions of section one of this Act."

The Children and Young Persons Act, 1933

23 & 24 Geo. 5., c. 12

In section ninety-two, for the words "Board of Control" there shall be substituted the words "Minister of Health."

The Pharmacy and Poisons Act, 1933

23 & 24 Geo. 5., c. 25

In section nineteen, in proviso (*a*) to subsection (3), for the words "Acts relating to national health insurance" there shall be substituted the words "National Health Service Act, 1946."

The Voluntary Hospitals (*Paying Patients*) *Act*, 1936

26 Geo. 5 & 1 Edw. 8., c. 17

In section one, in the definition of "voluntary hospital" after the word "rates" there shall be inserted the words "or which is vested in the Minister of Health."

The Public Health Act, 1936

26 Geo. 5 & 1 Edw. 8., c. 49

The following provisions, that is to say, sections one hundred and sixty-nine, one hundred and seventy, two hundred and forty-four, two hundred and fifty-four and three hundred and five shall have effect as if local health authorities were among the authorities

[1] 20 & 21 Geo. 5, c. 43. [2] 24 & 25 Geo. 5, c. 50.

specified therein ; sections one hundred and forty-three, one hundred and seventy-two, one hundred and seventy-nine and one hundred and ninety-six shall, in their application to any council which is a local health authority, be construed as applying to that council in their capacity of local health authority ; and section two hundred and sixty-seven and any provision in Part XII shall, in its application to any such council, be construed as applying to that council in their capacity of local health authority as well as in other capacities.

Where the local authority for the purposes of the Public Health Act, 1936, is not the local health authority, it shall be the duty of the medical officer of health of the said local authority for any part of the area of the local health authority who receives a certificate or notice under section one hundred and forty-four, section one hundred and forty-six, or section two hundred and forty-two of the said Act to send a copy thereof within twelve hours after its receipt to the local health authority ; and where a copy of any such certificate has been sent to the local health authority under this paragraph, and any fee has been paid for that certificate by the local authority, the fee shall be repaid to the authority by the local health authority.

In section one hundred and sixty-nine for the words " or institution " in the first place where they occur there shall be substituted the words " vested in the Minister," for the words " superintending body " there shall be substituted the words " Hospital Management Committee or Board of Governors," the words " or institution " in the second and third places where they occur and the words " and maintained therein at the cost of the authority " shall be omitted.

In section one hundred and seventy in subsection (1) the words from " at the cost " to the end of the subsection shall be omitted.

In section one hundred and seventy-two in subsection (1) for the words " or institution " in the first place where they occur there shall be substituted the words " vested in the Minister," for the words " superintending body " there shall be substituted the words " Hospital Management Committee or Board of Governors," and the words " or institution " in the second place where they occur shall be omitted ; in subsection (5) sub-paragraph (i) and the words " pay the whole or such part, if any, as they think fit of the said cost and " shall be omitted and in subsection (7) the words " or institution " shall be omitted.

In section one hundred and ninety-nine for the words " Board of Control " there shall be substituted the word " Minister."

In section two hundred and three, in subsection (1) the words " the council who are " shall be omitted.

In section two hundred and eighteen, after the words " place of

safety " there shall be inserted the words " other than a hospital vested in the Minister."

In subsection (1) *of section two hundred and nineteen in paragraph* (c) *thereof for the words " Board of Control " there shall be substituted the word " Minister."*

In section two hundred and forty-four for the words " or institution " in the first place where they occur there shall be substituted the words " vested in the Minister," for the words " superintending body " there shall be substituted the words " Hospital Management Committee or Board of Governors " and the words " or institution " in the second and third places where they occur and the words " and maintained therein at their cost " shall be omitted.

In section three hundred and seven the words " hospital accommodation " shall be omitted.

The Public Health (*London*) *Act*, 1936

26 Geo. 5. and 1 Edw. 8., c. 50

The following provisions, that is to say, subsection (8) of section one hundred and ninety-two, subsection (2) of section two hundred and two, section two hundred and twenty-four (except so far as it relates to the exercise of powers under the Poor Law Act, 1930) and section two hundred and ninety-eight shall, in their application to the London County Council, be construed as applying to that council in their capacity of local health authority ; and section two hundred and ninety-nine shall, in its application to the London County Council, be construed as applying to that council in their capacity of local health authority as well as in other capacities.

In section one hundred and ninety-two the proviso to subsection (1) shall be omitted.

In section two hundred and one, in subsection (1) for the words " superintending body " there shall be substituted the words " Hospital Management Committee or Board of Governors," the words " at the expense of the sanitary authority for the district in which the said person is found " shall be omitted and at the end of the subsection there shall be inserted the words " which is vested in the Minister," in subsection (2) after the words " sanitary authority," there shall be inserted the words " or the local health authority " and in subsection (3) for the words " to which the authority are entitled to remove patients " there shall be substituted the words " vested in the Minister, with the consent of the Hospital Management Committee or Board of Governors thereof."

In subsection (1) of section two hundred and two after the word " hospital " in the first place where it occurs there shall be inserted

the words " vested in the Minister " and the words " at the expense of the county council " shall be omitted.

In subsection (2) of section two hundred and twenty-four after the word " place " there shall be inserted the words " other than a hospital vested in the Minister " and after the words " order was made " there shall be inserted the words " and the expenses incurred in the removal of any person as aforesaid to a hospital vested in the Minister shall be borne by the local health authority ; " and in subsection (4) after the words " sanitary authority " there shall be inserted the words " or the local health authority."

In section two hundred and fifty-five for references to a welfare authority or every welfare authority there shall be substituted references to the local health authority, and for references to the district of a welfare authority and to the medical officer of health for such a district there shall be substituted references to the area of the local health authority and the medical officer of that authority, respectively.

Throughout Part XIII, for references to the local authority or a local authority or every local authority there shall be substituted references to the local health authority and for references to the district of a local authority there shall be substituted references to the area of the local health authority.

In subsection (3) of section two hundred and fifty-seven, paragraph (*a*) shall be omitted.

In section two hundred and sixty-eight, in subsection (1) the words from " and, for the purpose of enforcing the provisions of this Part of this Act," to the end of the subsection, and in subsection (2) the words " or the county council," shall be omitted.

In section two hundred and seventy-one for the words " Board of Control " there shall be substituted the word " Minister."

In section three hundred and four, in the definition of " nursing home " for the words " Board of Control " there shall be substituted the word " Minister."

The Shops (Sunday Trading Restriction) Act, 1936

26 Geo. 5 and 1 Edw. 8, c. 53

In proviso (v) to subsection (1) of section eleven and in paragraph 1 of the First Schedule, for the words " insurance committee within the meaning of the National Health Insurance Act, 1936," and the words " insurance committee under the National Health Insurance Act, 1936," respectively, there shall be substituted the words " Executive Council."

The Food and Drugs Act, 1938

1 & 2 Geo. 6, c. 56

In section seventeen in subsection (1), at the end of the subsection there shall be inserted the words " and, where the local authority is not the local health authority, the district medical officer of health shall send a copy of the certificate within twelve hours after its receipt to the local health authority " and at the end of subsection (4) there shall be added the following subsection :—

" (5) Where a copy of a certificate has been sent to the local health authority under this section, and any fee has been paid for that certificate by the local authority, the fee shall be repaid to the local authority by the local health authority."

The Adoption of Children (Regulation) Act, 1939

2 & 3 Geo. 6, c. 27

In section seven, in paragraph (c) of subsection (8) for the words " Board of Control " there shall be substituted the words " Minister of Health " and in section sixteen, in subsection (3), for the words " London County Council " there shall be substituted the words " local health authority " and for the words " that Council " there shall be substituted the words " that authority."

The Education Act, 1944

7 & 8 Geo. 6, c. 31

In section fifty-seven, for references to the local authority for the purposes of the Mental Deficiency Act, 1913, there shall be substituted references to the local health authority.

Part II

Repeals

Session and Chapter.	Short Title.	Extent of Repeal.
12 & 13 Vict. c. 103.	The Poor Law Amendment Act, 1849.	In section 3, the words " or under the statutes for the removal of rate-aided persons of unsound mind to mental hospitals."
23 & 24 Vict. c. 75.	The Criminal Lunatic Asylums Act, 1860.	In sections 2 and 3 the word " county " wherever it occurs.
30 & 31 Vict. c. 84.	The Vaccination Act, 1867.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
34 & 35 Vict. c. 70.	The Local Government Board Act, 1871.	So much of Part II of the Schedule as relates to the Vaccination Act, 1867.
34 & 35 Vict. c. 98.	The Vaccination Act, 1871.	The whole Act.
37 & 38 Vict. c. 75.	The Vaccination Act, 1874.	The whole Act.
61 & 62 Vict. c. 49.	The Vaccination Act, 1898.	The whole Act.
7 Edw. 7, c. 31.	The Vaccination Act, 1907.	The whole Act.
5 & 6 Geo. 5, c. 64.	The Notification of Births (Extension) Act, 1915.	The whole Act.
8 & 9 Geo. 5, c. 43.	The Midwives Act, 1918.	Subsection (4) of section 14.
11 & 12 Geo. 5, c. 12.	The Public Health (Tuberculosis) Act, 1921.	The whole Act.
16 & 17 Geo. 5, c. 32.	The Midwives Act, 1926.	Subsection (3) of section 2.
19 & 20 Geo. 5, c. 17.	The Local Government Act, 1929.	Section 2; paragraphs (*d*) and (*f*) of subsection (1) and subsection (3) of section 5; subsection (5) of section 14; sections 62, 93 and 101; subsections (2) and (3) of section 102; subsection (2) of section 128; paragraph 4 of the Third Schedule, paragraph 11, sub-paragraphs (*a*) and (*b*) of paragraph 12, sub-paragraphs (*a*) and (*b*) of paragraph 13, sub-paragraph (*b*) of paragraph 24 and paragraph 25 of the Tenth Schedule.
20 & 21 Geo. 5, c. 17.	The Poor Law Act, 1930.	Section 8; in subsection (1) of section 19, the words "or, being a person of unsound mind, is removed to any institution for persons of unsound mind"; in subsection (1) of section 22 the words "surgical or medical appliances"; in section 40 the words from

Session and Chapter.	Short Title.	Extent of Repeal.
		" whether maintained " to the end of the section ; in subsection (3) of section 52 the words from " separate infirmary " to " disease " and the words " or idiots " ; paragraph (*a*) of section 58 ; in paragraph (*a*) of section 67 the words " sick or " ; in section 80 the words " medical or otherwise " ; in subsection (1) of section 123 the words " sick, insane or " and sections 126 to 131.
21 & 22 Geo. 5, c. 15.	The Yarmouth Naval Hospital Act, 1931.	In paragraph (ii) of subsection (5) of section 2, the words " or the master of the workhouse " and in section 7 the words " by deductions of pay or pensions or ".
23 & 24 Geo. 5, c. 38.	The Summary Jurisdiction (Appeals) Act, 1933.	In subsection (2) of section 1 the words " under sections three hundred and one to three hundred and thirteen of the Lunacy Act, 1890 or " and in subsection (2) of section 9 the words " under sections three hundred and one to three hundred and thirteen of the Lunacy Act, 1890, and ".
24 & 25 Geo. 5, c. 29.	The Unemployment Assistance Act, 1934.	In subsection (2) of section 53 the words " to medical needs or " and " to mental or bodily health or " ; in subsection (1) of section 54 the definitions of " Medical needs " and " Medical or surgical " and in Part I of the Eighth Schedule, in proviso (ii) to paragraph 1 the words " apply to the granting of relief in respect of the medical needs of any person or," and in

Session and Chapter.	Short Title.	Extent of Repeal.
		paragraph 3 the words "not being relief in respect of medical needs," in both places where they occur.
26 Geo. 5 and 1 Edw. 8, c. 40.	The Midwives Act, 1936.	Section 1, subsections (1) and (2) of section 2, sections 3 and 4, and the First Schedule.
26 Geo. 5 and 1 Edw. 8, c. 49.	The Public Health Act, 1936.	Sections 171, 173 to 178, 180 to 186, 197, 200, 201 and 202; subsection (4) of section 203 and section 204.
26 Geo. 5 and 1 Edw. 8, c. 50.	The Public Health (London) Act, 1936.	Sections 13, 219 to 223, 225 to 233, and 250 to 254; subsection (5) of section 255, and section 256.
26 Geo. 5 and 1 Edw. 8, c. 51.	The Housing Act, 1936.	In section 97, the words "or mental hospitals board" and "or board;" subsection (2) of section 120; in subsection (2) of section 123 the words "or a mental hospital board" and in section 188 the definition of "Mental hospitals board".
1 & 2 Geo. 6, c. 11.	The Blind Persons Act, 1938.	In subsection (2) of section 2 the word "either," in the second place where it occurs, and the words "or medical assistance."
2 & 3 Geo. 6, c. 13.	The Cancer Act, 1939.	Sections 1, 2 and 6 and subsections (2) and (3) of section 8.
2 & 3 Geo. 6, c. 40.	The London Government Act, 1939.	Sections 62 and 193 and paragraph (*e*) of subsection (2) of section 195.
3 & 4 Geo. 6, c. 13.	The Old Age and Widows' Pensions Act, 1940.	In Part II of the Eighth Schedule to the Unemployment Assistance Act, 1934, as applied with modifications by the Second Schedule to the Old Age and Widows' Pensions Act, 1940, in paragraph 1 the words "apply to the granting of relief in respect of the

Session and Chapter.	Short Title.	Extent of Repeal.
		medical needs of any person or," and in paragraph 2 the words "not being relief in respect of medical needs," in both places where they occur.
7 & 8 Geo. 6, c. 31.	The Education Act, 1944.	In section 116 the words "in pursuance of section twenty-five of the Lunacy Act, 1890, or ".

(S. R. & O. 1946, No. 2158)

The National Health Service (Determination of Regional Hospital Areas) Order, 1946

(Made 18th December, 1946)

Whereas by section 11 of the National Health Service Act, 1946, it is provided that the Minister of Health (hereinafter called "the Minister") may by order determine the areas for which Regional Hospital Boards shall be constituted for the exercise of functions with respect to the administration of hospital and specialist services and that before making any order determining such an area the Minister shall consult with such bodies and organisations as appear to him to be concerned :

Now therefore the Minister, in exercise of his powers under the said Act, and after consulting with such bodies and organisations as appear to him to be concerned, hereby orders as follows :—

1. This order may be cited as the National Health Service (Determination of Regional Hospitals Area) Order, 1946, and shall come into operation on the date hereof.

2. Each of the areas set out in the schedule to this order and numbered respectively 1 to 14 shall be an area for which a Regional Hospital Board shall be constituted for the purpose of exercising functions with respect to the administration of hospital and specialist services under the said Act in that area, and each such area shall be known by the title set out in the second column of the said schedule opposite the description of the area.

SCHEDULE

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
1	The Newcastle Regional Hospital Area.	The administrative counties of Cumberland, Durham and Northumberland. The county boroughs of Carlisle, Darlington, Gateshead, Middlesbrough, Newcastle-upon-Tyne, South Shields, Sunderland, Tynemouth and West Hartlepool. So much of the administrative county of Westmorland as comprises the borough of Appleby and the rural district of North Westmorland. So much of the administrative county of the North Riding of York as comprises the boroughs of Redcar, Richmond and Thornaby-on-Tees; the urban districts of Eston, Guisborough, Loftus, Northallerton, Saltburn and Marske-by-the-Sea, and Skelton and Brotton; and the rural districts of Croft, Northallerton, Reeth, Richmond, Startforth and Stokesley.
2	The Leeds Regional Hospital Area.	The administrative counties of the East Riding of York, the North Riding of York (except the part included in the Newcastle Regional Hospital Area) and the West Riding of York (except the part included in the Sheffield Regional Hospital Area). The county boroughs of Bradford, Dewsbury, Halifax, Huddersfield, Kingston-upon-Hull, Leeds, Wakefield, and York.
3	The Sheffield Regional Hospital Area.	The administrative counties of Derby (except the part included in the Manchester Regional Hospital Area), Leicester, Lincoln, Parts of Holland, Lincoln, Parts of Kesteven (except the part included in the East Anglian Regional Hospital Area), Lincoln, Parts of Lindsey, Nottingham and Rutland (except the rural district of Ketton). The county boroughs of Barnsley, Derby, Doncaster, Grimsby, Leicester, Lincoln, Nottingham, Rotherham and Sheffield. So much of the administrative county

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
		of the West Riding of York as comprises the urban districts of Adwick-le-Street, Bentley with Arksey, Conisbrough, Cudworth, Darfield, Darton, Dearne, Dodworth, Hoyland Nether, Maltby, Mexborough, Penistone, Rawmarsh, Royston, Stocksbridge, Swinton, Tickhill, Wath-upon-Dearne, Wombwell and Worsborough; and the rural districts of Doncaster, Kiveton Park, Penistone, Rotherham, Thorne and Wortley.
4	The East Anglian Regional Hospital Area.	The administrative counties of Cambridge, Huntingdon, Isle of Ely, Norfolk, Soke of Peterborough, Suffolk, East, and Suffolk, West. The county boroughs of Great Yarmouth, Ipswich and Norwich. So much of the administrative county of Essex as comprises the borough of Saffron Walden; and the rural district of Saffron Walden. So much of the administrative county of Hertford as comprises the urban district of Royston. So much of the administrative county of Lincoln, Parts of Kesteven, as comprises the borough of Stamford; the urban district of Bourne; and the rural district of South Kesteven. So much of the administrative county of Rutland as comprises the rural district of Ketton.
5	The North-West Metropolitan Regional Hospital Area.	The administrative counties of Bedford, Hertford (except the parts included in the East Anglian and North-East Metropolitan Regional Hospital Areas) and Middlesex (except the part included in the North-East Metropolitan Regional Hospital Area). So much of the administrative county of Berks as comprises the boroughs of Maidenhead and New Windsor; and the rural districts of Cookham, Easthampstead and Windsor. So much of the administrative county of Buckingham as comprises the borough of Slough; the urban districts

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
		of Beaconsfield and Eton; and the rural district of Eton. So much of the administrative county of London as comprises the metropolitan boroughs of Hampstead, Holborn, Islington, St. Marylebone and St. Pancras, the part of the metropolitan borough of Hammersmith lying North of Goldhawk Road and Stamford Brook Road, the part of the metropolitan borough of Kensington lying North of Holland Park Avenue, Notting Hill Gate and Bayswater Road, the part of the metropolitan borough of Paddington lying North of Bayswater Road, and the part of the metropolitan borough of Westminster lying North East of Park Lane, and North of Constitution Hill, Birdcage Walk, Great George Street and Bridge Street.
6	The North-East Metropolitan Regional Hospital Area.	The administrative county of Essex (except the part included in the East Anglian Regional Hospital Area). The county boroughs of East Ham, Southend-on-Sea and West Ham. So much of the administrative county of Hertford as comprises the borough of Hertford; the urban districts of Bishop's Stortford, Cheshunt, Hoddesdon, Sawbridgeworth and Ware; and the rural districts of Braughing, Hertford and Ware. So much of the administrative county of Middlesex as comprises the boroughs of Edmonton and Tottenham; and the urban district of Enfield. So much of the administrative county of London as comprises the City of London, the places known as the Inner Temple and Middle Temple, and the metropolitan boroughs of Bethnal Green, Finsbury, Hackney, Poplar, Shoreditch, Stepney and Stoke Newington.
7	The South-East Metropolitan Regional Hospital Area.	The administrative counties of Kent and Sussex, East. The county boroughs of Brighton, Canterbury, Eastbourne and Hastings.

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
		So much of the administrative county of London as comprises the metropolitan boroughs of Bermondsey, Camberwell, Deptford, Greenwich, Lewisham, Southwark and Woolwich, and the part of the metropolitan borough of Lambeth lying East of Kennington Park Road, Brixton Road and Brixton Hill.
8	The South-West Metropolitan Regional Hospital Area.	The administrative counties of Dorset (except the part included in the South-Western Regional Hospital Area), Isle of Wight, Southampton, Surrey and Sussex, West. The county boroughs of Bournemouth, Croydon, Portsmouth, and Southampton. So much of the administrative county of Wilts as comprises the boroughs of New Sarum and Wilton ; and the rural districts of Amesbury, Mere and Tisbury and Salisbury and Wilton. So much of the administrative county of London as comprises the metropolitan boroughs of Battersea, Chelsea, Fulham, Wandsworth, the part of the metropolitan borough of Hammersmith lying South of Goldhawk Road and Stamford Brook Road, the part of the metropolitan borough of Kensington lying South of Holland Park Avenue, Notting Hill Gate and Bayswater Road, the part of the metropolitan borough of Lambeth lying West of Kennington Park Road, Brixton Road and Brixton Hill, the part of the metropolitan borough of Paddington lying South of Bayswater Road, and the part of the metropolitan borough of Westminster lying South-West of Park Lane and South of Constitution Hill, Birdcage Walk, Great George Street and Bridge Street.
9	The Oxford Regional Hospital Area.	The administrative counties of Berks (except the part included in the North-West Metropolitan Regional Hospital Area), Buckingham (except the part included in the North-West Metro-

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
		politan Regional Hospital Area), Northampton, and Oxford. The county boroughs of Northampton, Oxford and Reading. So much of the administrative county of Gloucester as comprises the urban district of Cirencester; and the rural districts of Cirencester, North Cotswold and Northleach. So much of the administrative county of Wilts as comprises the boroughs of Marlborough and Swindon; and the rural districts of Cricklade and Wootton Bassett, Highworth, Marlborough and Ramsbury and Pewsey.
10	The South-Western Regional Hospital Area.	The administrative counties of Cornwall, Devon, Gloucester, Somerset and Wilts (except the parts included in the South-West Metropolitan Regional Hospital Area and the Oxford Regional Hospital Area). The Isles of Scilly. The county boroughs of Bath, Bristol, Exeter, Gloucester and Plymouth. So much of the administrative county of Dorset as comprises the borough of Lyme Regis.
11	The Welsh Regional Hospital Area.	The whole of Wales and the administrative county of Monmouth. The county borough of Newport.
12	The Birmingham Regional Hospital Area.	The administrative counties of Hereford, Salop, Stafford, Warwick and Worcester The county boroughs of Birmingham, Burton-upon-Trent, Coventry, Dudley, Smethwick, Stoke-on-Trent, Walsall, West Bromwich, Wolverhampton and Worcester.
13	The Manchester Regional Hospital Area.	The administrative counties of Chester (except the part included in the Liverpool Regional Hospital Area), Lancaster (except the part included in the Liverpool Regional Hospital Area) and Westmorland (except the part included in the Newcastle Regional Hospital Area). The county boroughs of Barrow-in-Furness, Blackburn, Blackpool, Bolton, Burnley, Bury, Manchester, Oldham,

Column 1 Number of Area	Column 2 Title of Area	Column 3 Description of Area
		Preston, Rochdale, Salford, Stockport, and Wigan. So much of the county of Derby as comprises the boroughs of Buxton and Glossop; the urban districts of New Mills and Whaley Bridge; and the rural district of Chapel-en-le-Frith.
14	The Liverpool Regional Hospital Area.	The county boroughs of Birkenhead, Bootle, Chester, Liverpool, St. Helens, Southport, Wallasey and Warrington. So much of the administrative county of Chester as comprises the borough of Bebington; the urban districts of Ellesmere Port, Hoylake, Hoole, Lymm, Neston, Runcorn, and Wirral; and the rural districts of Chester, Runcorn and Tarvin. So much of the administrative county of Lancaster as comprises the boroughs of Crosby and Widnes; the urban districts of Formby, Golborne, Haydock, Huyton with Roby, Litherland, Newton-le-Willows, Ormskirk, Prescot, Rainford and Skelmersdale; and the rural districts of Warrington, West Lancashire and Whiston.

(S. R. & O. 1946, No. 2240)

The Isles of Scilly (National Health Service) Order, 1946

This order has since been revoked by the Isles of Scilly (National Health Service) Order, 1948 (*S. I.* 1948, *No.* 167) *q.v.*

(S. R. & O. 1947, No. 646)

The National Health Service (Leicestershire and Rutland) Executive Council Order, 1947

(Made 10th April, 1947.)

Whereas it appears to the Minister of Health to be expedient in the interests of the efficiency of the services provided under Part IV

of the National Health Service Act, 1946 (in this Order called " the Act ") that a single Executive Council should be constituted for the areas of the following local health authorities namely the County Council of Leicester and the County Council of Rutland :

Now therefore in pursuance of his powers under section 31 of the Act the Minister of Health makes the following Order :—

1. This Order may be cited as the National Health Service (Leicestershire and Rutland) Executive Council Order, 1947, and shall come into operation on the date hereof.

2. A single Executive Council to be known as " the Executive Council for Leicestershire and Rutland " shall be constituted for the County of Leicester and the County of Rutland.

3. The members of the Executive Council required by the 5th Schedule to the Act to be appointed by the local health authority shall be appointed as to six members by the County Council of Leicester and as to two members by the County Council of Rutland.

4. No Executive Council other than the Council constituted under this Order shall be constituted for the County of Leicester or the County of Rutland.

(S. R. & O. 1947, No. 889)

The National Health Service (Executive Councils) Regulations, 1947

(Made 12th May, 1947 ; operation 15th May, 1947.)

The Minister of Health, in exercise of his powers under sections 41 and 79 of and the Fifth Schedule to the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

Part I

General

Short Title, Commencement and Extent

1.—(1) These regulations may be cited as the National Health Service (Executive Councils) Regulations, 1947, and shall come into operation on the 15th day of May, 1947.

(2) These regulations shall not apply to the Isles of Scilly.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946.

" council " means the Executive Council constituted for any area.

(2) The Interpretation Act, 1889,[1] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Appointment of Members, Term of Office, Casual Vacancies, etc.

Notice of Appointment of Members

3.—(1) A local health authority, local medical committee, local pharmaceutical committee, or local dental committee shall forthwith give notice in writing to the Minister of the name and address of any person appointed by them to be an original member of a council and to the clerk of the council of the name and address of any other member appointed by them.

(2) The clerk of the council shall forthwith inform the Minister of the names and addresses of any members so notified to him.

Term of Office

4.—(1) The first chairman of the council shall hold office until the 31st day of March, 1949.

(2) Of the original members of the council, other than the chairman, one third shall retire on the 31st day of March, 1949, one third on the 31st day of March, 1950, and the remainder on the 31st day of March, 1951.

(3) The order of retirement of the original members under the preceding paragraph of this regulation shall be determined by lot at a meeting of the council held as soon as conveniently may be after the constitution of the council, the lots being drawn under the direction of the person presiding at the meeting.

(4) Subject as aforesaid, the term of office of members shall be three years :

Provided that at the expiration of his term of office a member shall be eligible for re-appointment.

Vice-Chairman

5. A council shall appoint a member to be vice-chairman, and any person so appointed shall, so long as he remains a member of that council, hold office for such period as may be specified in the resolution under which he is appointed.

[1] 52 & 53 Vict. c. 63.

Resignation or Removal of Members

6.—(1) A member of the council who desires to resign his membership thereof shall give notice in writing to the clerk of the council, or, in the case of the chairman, to the Minister.

(2) If a member of the council has not attended any meeting of the council or of any committee for a period of six months, the clerk of the council shall inform the council, and unless the council is satisfied that his absence was due to illness or other reasonable cause it shall declare that his seat on the council has become vacant.

Disqualification for Membership

7. Subject to paragraphs (ii), (iii) and (v) of the proviso to subsection (1) of section 59 of the Local Government Act, 1933, the provisions of paragraphs (*b*) and (*e*) of that subsection (which disqualify a person for being elected or being a member of a local authority if he has been adjudged bankrupt or made a composition or arrangement with his creditors or has been sentenced to imprisonment for not less than three months without the option of a fine) shall apply as if the section related to membership of a council.

Notification and Filling of Casual Vacancies

8.—(1) If a casual vacancy occurs by reason of the death, resignation or disqualification of any member of the council appointed by the Minister the clerk of the council shall forthwith inform the Minister, and if the person whose seat is vacated was other than one appointed by the Minister he shall inform the clerk or secretary of the appointing body.

(2) If a casual vacancy occurs amongst the persons appointed by the Minister, he shall inform the clerk of the council of the name and address of the person appointed to fill the vacancy.

(3) If a casual vacancy occurs amongst the persons appointed by one of the bodies specified in regulation 3, it shall be filled by the same body.

Term of Office of Persons Filling Casual Vacancies

9. Any person appointed to fill a casual vacancy shall hold office for the remainder of the term of office of the person in whose place he is appointed.

Part II

Procedure of Executive Councils

General Provisions

Meetings

10.—(1) At every meeting of the council, the chairman,. if present, shall preside.

(2) If the chairman is absent from any meeting, the vice-chairman shall, if present, preside, and if the chairman and vice-chairman are both absent the members present at the meeting shall elect from among themselves a person to act as chairman for that meeting.

(3) Every question at a meeting of the council shall be determined by a majority of the votes of the members of the council present and voting on the question, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

Minutes

11. Minutes of the proceedings at every meeting of the council and a record of the attendance of the members of the council shall be duly kept by the clerk.

Officers

12.—(1) The council shall appoint a person approved by the Minister to act as clerk of the council and shall also appoint such other officers as may be necessary. The resolution appointing the clerk shall embody the terms on which the appointment is made.

(2) When an officer has attained the age of 65 years he shall cease to hold his office.

Provided that a council may in exceptional circumstances, with the consent of an officer and of the Minister, by resolution extend his period of service for one year or any less period, and so on from time to time.

(3) The council shall pay to the clerk and to their other officers remuneration in accordance with scales from time to time approved by the Minister, or such remuneration as the Minister may in special circumstances authorise.

(4) No member of the council or person who has at any time in the previous twelve months been a member of the council shall be appointed to the office of clerk or any other paid office under the council.

Committees

13.—(1) The council shall appoint a committee to be called the finance committee which shall consist wholly of members of the

council and may appoint such further committees as they think fit which shall consist either wholly or partly of members of the council as the council may determine, provided that at least a majority of the members of the committee shall be members of the council.

(2) Subject to the provisions of any regulations relating to the finance committee, the council may delegate to any committee any of the powers and duties of the council, and any resolution of the council appointing a committee shall define the powers and duties delegated to them and the term of office of the members :

Provided that—

(i) No expenditure shall be incurred by any committee without the consent of the council ; and

(ii) Every committee shall report their proceedings to the council at such times and in such manner as the council may direct.

(3) Every committee shall appoint a chairman and subject as aforesaid and to any standing orders of the council relating to committees the provisions of these regulations relating to the duties of the chairman and the provisions relating to the vice-chairman, and proceedings of councils shall apply to committees as they apply to councils, with the substitution of the committee for the council.

Power to Make Standing Orders

14. The council may make, vary, and revoke standing orders for the regulation of the proceedings and business of the council and of the committees and in particular—

(*a*) for the times and places of the meetings of the council or committee which in the case of the council shall be held not less often than once in every three months ;

(*b*) for due notice of the time and place of each meeting of the council or any committee and, subject to any exceptions which may be mentioned in the standing orders, of the business to be transacted thereat, to be given to members ;

(*c*) for the suspension of a member who is guilty of persistent disorder ;

(*d*) for providing that, subject to such exceptions and qualifications as may be specified in the standing orders, if a member has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter (not being a contract for the provision of one of the services mentioned in Part IV of the Act) and is present at a meeting of the council or committee at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose

the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter ;

(*e*) for such number of members of the council or committee, not being less than one-third of the whole number, as the standing order may specify to form a quorum.

Committees Authorised or Required to be Appointed by Other Provisions

15. Nothing in this part of these regulations shall apply (except so far as it may be specifically applied) to a committee constituted for any purpose for which a committee is authorised or required to be appointed by any other provisions for the time being in force.

Offices

16. The council may provide itself with offices and in the case of a joint committee established under subsection (4) of section 31 of the Act, the constituent councils may provide the joint committee with offices.

Part III

Supplementary Ophthalmic Services

Ophthalmic Services Committee

17.—(1) Unless the Minister has by order made under subsection (4) of section 41 of the Act directed that that section shall cease to apply to the area of the council, the council shall appoint an ophthalmic services committee (in this part of these regulations referred to as " the committee "), which shall exercise on behalf of the council the duty of making arrangements for the testing of sight and for the supply of optical appliances.

(2) The committee shall make reports to the council at such times and in such manner as the council may direct.

Appointment of Members

18.—(1) The committee shall consist of sixteen members appointed as follows :—

(*a*) eight members by the council from among the members of the council other than those appointed by the local medical committee ;

(*b*) one medical practitioner by the council from among those members of the council appointed by the local medical committee ;

(*c*) (i) three medical practitioners having the prescribed qualifications ;
(ii) three ophthalmic opticians ; and
(iii) one dispensing optician,

appointed respectively by such organisations as the Minister may recognise as composed of members of the professions concerned :

Provided that the number and proportion of members appointed may be varied with the consent of the Minister to meet local conditions.

(2) The committee shall appoint a member to be chairman.

Qualifications of Persons Entitled to Provide Supplementary Ophthalmic Services

19.—(1) For the purpose of Part IV of and the Seventh Schedule to the Act and these regulations the expression " medical practitioner having the prescribed qualifications " means a medical practitioner who has—

(*a*) completed an academic or post graduate course in ophthalmology approved by the committee hereinafter in this paragraph mentioned and received a diploma or certificate in respect of such course ; or
(*b*) held for a period of 2 years an appointment as an ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an eye hospital or a hospital having a special eye department ; or
(*c*) held any appointment for a period of 2 years affording special opportunities for acquiring the necessary skill and experience of the kind required for the services to be rendered,

and who shall, to the satisfaction of the Minister acting on the advice of a committee to be recognised by him for the purpose of approving such qualifications, have had adequate, including recent, experience.

(2) The qualifications required by an ophthalmic optician for the purpose of Part IV of and the Seventh Schedule to the Act and these regulations shall be that—

(*a*) he was in possession of one of the following diplomas or certificates :—
(i) The Fellowship Diploma of the British Optical Association ;
(ii) The Honours Fellowship Diploma of the British Optical Association

(iii) The Fellowship Diploma of the Worshipful Company of Spectacle Makers ;

(iv) The Honours Fellowship Diploma of the Worshipful Company of Spectacle Makers ;

(v) The Fellowship Diploma of the National Association of Opticians, if obtained subsequent to the 16th day of October, 1935 ;

(vi) The Fellowship Diploma of the Scottish Association of Opticians, if obtained subsequent to the 12th day of December, 1935 ;

(vii) The Membership Certificate of the Institute of Chemists—Opticians, if obtained subsequent to the 12th day of December, 1935 ; or

(*b*) he was immediately before the appointed day an optician on the list of the Ophthalmic Benefit Approved Committee constituted under the National Health Insurance Act, 1936 [1] ; or

(*c*) he had been in practice as an ophthalmic optician, for fifteen out of the previous twenty years, including five years between the 1st day of October, 1930, and the 30th day of September, 1937,

and that he shall, to the satisfaction of the Minister acting on the advice of a committee to be recognised by him for the purpose of approving such qualifications, have had adequate, including recent, experience as an ophthalmic optician.

(3) The qualifications required by a dispensing optician for the purpose of Part IV of and the Seventh Schedule to the Act and these regulations shall be that—

(*a*) he was in possession of one of the following diplomas or certificates :—

(i) any of the diplomas or certificates mentioned in sub-paragraph (*a*) of paragraph (2) of this regulation or the dispensing certificate of any of the examining bodies referred to in the said sub-paragraph ;

(ii) The Associate Diploma or the Fellowship Diploma of the Association of Dispensing Opticians ; or

(*b*) he has passed the practical side of the final dispensing examination of the Association of Dispensing Opticians and has been engaged as a dispensing optician for a period of five years ; or

(*c*) he has been engaged as an optician for ten out of the pre-

[1] 26 Geo. 5 & 1 Edw. 8, c. 32.

vious fifteen years, and for five years between the 1st day of October, 1930, and the 30th day of September, 1937,

and that he shall, to the satisfaction of the Minister acting on the advice of a committee to be recognised by him for the purpose of approving such qualifications, have had adequate, including recent, experience as a dispensing optician :

Provided that a person who is entitled to have his qualifications approved either under the last foregoing paragraph of this regulation or this paragraph shall only be entitled to have his qualifications approved either as an ophthalmic optician or as a dispensing optician.

Notification and Filling of Casual Vacancies

20.—(1) A casual vacancy in the committee shall be filled by the appropriate body in accordance with the provisions of paragraph (1) of regulation 18.

(2) Any body other than the council filling a casual vacancy shall notify the clerk of the council of the name and address of the person appointed.

Officers

21. The clerk of the council shall act as clerk of the committee, and the council shall make available to the committee the services of such other officers as the committee may require.

Term of Office of Original Members

22. The original members of the committee shall retire on the 31st day of March, 1949, and thereafter the term of office of members shall be one year :

Provided that at the expiration of his term of office a member shall be eligible for re-appointment.

Application of Regulations

23. Regulations 5, 6, 7, 9, 10 and 11 of these regulations shall apply to the ophthalmic services committee with the substitution in all cases of the committee for the council, and any standing orders made by the council under regulation 14 for the regulation of the proceedings and business of committees shall apply to the committee, with such modifications as the committee may with the council's approval consider necessary.

Office Accommodation

24. The council shall make available to the committee such office accommodation as the committee may require.

PART IV

Subscriptions to, and Payment of Expenses of Members Attending Meetings of an Association of Executive Councils

Payments with Respect to an Association of Executive Councils

25. A council may pay any sum, not exceeding in respect of any year ten pounds or such higher amount as the Minister approves not exceeding twenty pounds, as a subscription to the funds of any association of councils whose objects are approved by the Minister, and also the travelling and subsistence expenses reasonably incurred by representatives not exceeding in any case four in attending any meetings of any such association in accordance with rates prescribed under and for the purposes of paragraph 3 (*c*) of the Fifth Schedule to the Act.

EXPLANATORY NOTE

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

The regulations provide for the appointment and term of office of members of Executive Councils and for the procedure of the councils. They also provide for the setting up of an Ophthalmic Services Committee in the area of each Executive Council for the administration of the supplementary ophthalmic services, and prescribe the qualifications required to be held by doctors and ophthalmic and dispensing opticians who participate in those services.

(S. R. & O. 1947, No. 930)

The National Health Service (Monmouthshire and Newport) Executive Council Order, 1947

(Made 26th April, 1947.)

Whereas it appears to the Minister of Health to be expedient in the interests of the efficiency of the services provided under Part IV of the National Health Service Act, 1946 (in this Order called " the Act "), that a single Executive Council should be constituted for the areas of the following local health authorities, namely the County Council of Monmouthshire and the Council of the County Borough of Newport.

Now therefore in pursuance of his powers under section 31 of the Act the Minister of Health makes the following Order :

1. This Order may be cited as the National Health Service (Monmouthshire and Newport) Executive Council Order, 1947, and shall come into operation on the date hereof.

2. A single Executive Council to be known as " the Executive Council for Monmouthshire and Newport " shall be constituted for the County of Monmouth and the County Borough of Newport.

3. The members of the Executive Council required by the Fifth Schedule to the Act to be appointed by the local health authority shall be appointed as to six members by the County Council of Monmouthshire and as to two members by the Council of the County Borough of Newport.

4. No Executive Council other than the Council constituted under this Order shall be constituted for the County of Monmouth or the County Borough of Newport.

(S. R. & O. 1947, No. 983)

The National Health Service Act (Appointed Day) Order, 1947

(Made 21st May, 1947 ; operation 1st July, 1947.)

Whereas it is provided by the National Health Service Act, 1946,[1] that certain provisions of that Act are to come into force on the appointed day, and the expression " appointed day " is defined by subsection (1) of section seventy-nine of that Act to mean such day as His Majesty may by Order in Council appoint, and it is provided by the said subsection that different days may be appointed for the purposes of different provisions of the said Act and for the repeal or amendment of different enactments by the said Act ;

Now, therefore, His Majesty, in pursuance of the said subsection (1) of section seventy-nine of the said Act is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the National Health Service Act (Appointed Day) Order, 1947.

2. The following provisions of the National Health Service Act, 1946, and the following repeals and amendments made by that Act, shall come into force on the first day of July, nineteen hundred and forty-seven, that is to say :—

(*a*) section forty-nine of the said Act ;

(*b*) subsections (1) and (2) of section fifty of the said Act so far as they relate to such of the amendments and repeals specified in the Ninth Schedule to the said Act as are hereinafter mentioned ;

[1] 9 & 10 Geo. 6, c. 81.

(*c*) the following amendments and repeals specified in the said Ninth Schedule—

The Lunacy Act, 1890. 53 & 54 Vict., c. 5.	The amendments of subsections (3) and (6) of section thirty-nine, sections fifty-one and one hundred and seventy-seven, section one hundred and ninety-one (except the last amendment of that section) and subsection (3) of section two hundred and four, the general amendment of Part VIII substituting for references to the Board of Control references to the Minister, the first amendment of subsection (1) of section two hundred and seventeen, the amendments of sections two hundred and twenty-one, two hundred and twenty-six, two hundred and thirty-one, two hundred and thirty-seven and three hundred and twenty, the first amendment of subsection (1) of section three hundred and twenty-nine (which inserts after the words " Board of Control ", in both places where they occur, the words " or the Minister "), the amendments of sections three hundred and thirty-two and three hundred and thirty-eight, and the amendment of section three hundred and forty-one inserting therein the definition of " the Minister " ;
The Lunacy Act, 1891. 54 & 55 Vict., c. 65.	The amendment of section twelve ;
The Mental Deficiency Act, 1913. 3 & 4 Geo. 5, c. 28.	The amendments of sections three and five, subsection (3) of section sixteen, sections twenty-one, twenty-three, twenty-four, subsection (1) of section twenty-five, section twenty-six, paragraph (*h*) of section thirty, sections thirty-six, forty-nine, fifty and fifty-eight, and the amendment in section seventy-one of the definition of " approved home " ; and the repeal of paragraph (*e*) of subsection (1) of section twenty-five ; and of section thirty-five ;
The Mental Treatment Act, 1930. 20 & 21 Geo. 5, c. 23.	The amendments of section one, paragraph (iii) of subsection (1) of section five, subsection (3) of section five, the proviso to subsection (9) of section five, subsection (17) of section five and section eleven ; and the repeal of section twelve ;

(*d*) section seventy-six of the said National Health Service Act, 1946 so far as it relates to such of the amendments specified in the Tenth Schedule to the said Act as are hereinafter mentioned ;

(*e*) the following amendments specified in the said Tenth Schedule—

The Children and Young Persons Act, 1933. 23 & 24 Geo. 5, c. 12.	The amendment of section ninety-two ;
The Public Health Act, 1936. 26 Geo. 5 & 1 Edw. 8, c. 49.	The amendments of sections one hundred and ninety-nine and two hundred and nineteen ;
The Public Health (London) Act, 1936. 26 Geo. 5 & 1 Edw. 8, c. 50.	The amendments of sections two hundred and seventy-one and three hundred and four ;
The Adoption of Children (Regulation) Act, 1939. 2 & 3 Geo. 6, c. 27.	The amendment of section seven.

3. Any reference in the last foregoing Article to amendments made by the National Health Service Act, 1946, in any provision of any enactment shall be construed as referring only to the amendments specifically directed by the said Act to be made in that provision, and not as referring to any general amendments directed by the said Act—

(*a*) to be made in all enactments relating to persons of unsound mind and mental defectives ;

(*b*) to be made throughout the Lunacy Act, 1890 ;

(*c*) to be made throughout the Mental Deficiency Act, 1913 ; or

(*d*) to be made throughout the Mental Treatment Act, 1930.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport*)

This Order brings into force on the 1st July, 1947, certain provisions of the National Health Service Act, 1946. The main provision is section 49 of the Act which transfers to the Minister of Health some of the administrative functions (set out in subsection (1) of the section) of the Board of Control under the Acts relating to mental treatment and mental deficiency. The section also provides for the transfer of officers and property, for the appointment to the Board of Control of an additional Medical Commissioner, and for certain minor administrative matters relating to the Board.

The Order also brings into force various amendments of the Acts relating to mental treatment and mental deficiency and a few other

enactments. These amendments are made by sections 50 and 76 of the National Health Service Act, 1946, and the 9th and 10th Schedules to that Act. They are consequential on the transfer of functions and other changes made by section 49 of the Act, which are referred to in the first paragraph of this Note.

(S. R. & O. 1947, No. 1180)

The National Health Service (Denbighshire and Flintshire) Executive Council Order, 1947

Whereas it appears to the Minister of Health to be expedient in the interests of the efficiency of the services provided under Part IV of the National Health Service Act, 1946 (in this Order called " the Act "), that a single Executive Council should be constituted for the areas of the following local health authorities, namely the County Council of Denbighshire and the County Council of Flintshire :

Now therefore in pursuance of his powers under section 31 of the Act the Minister of Health makes the following Order :

1. This Order may be cited as the National Health Service (Denbighshire and Flintshire) Executive Council Order, 1947, and shall come into operation on the date hereof.

2. A single Executive Council to be known as " the Executive Council for Denbighshire and Flintshire " shall be constituted for the County of Denbigh and the County of Flint.

3. The members of the Executive Council required by the Fifth Schedule to the Act to be appointed by the local health authority shall be appointed as to four members by the County Council of Denbighshire and as to four members by the County Council of Flintshire.

4. No Executive Council other than the Council constituted under this Order shall be constituted for the County of Denbigh or the County of Flint.

(S. R. & O. 1947, No. 1297)

The National Health Service (Constitution of Regional Hospital Boards) Order

(Dated 24th June, 1947.)

Whereas by section 11 (1) of the National Health Service Act, 1946, it is provided that the Minister of Health (hereinafter called

" the Minister ") shall by order constitute in accordance with Part I of the Third Schedule to that Act, boards, to be called Regional Hospital Boards, for such areas as he may by order determine ;

And whereas the Minister has by the National Health Service (Determination of Regional Hospital Areas) Order, 1946[1], determined that the areas set out in the schedule thereto and numbered respectively 1 to 14 shall be areas for which regional hospital boards shall be constituted :

Now therefore the Minister hereby orders as follows :—

1. This order may be cited as the National Health Service (Constitution of Regional Hospital Boards) Order, 1947, and shall come into operation on the date hereof.

2. A regional hospital board is hereby constituted for each of the said areas numbered 1 to 14 in the said schedule to the National Health Service (Determination of Regional Hospital Areas) Order, 1946, for the purpose of exercising functions with respect to the administration of hospital and specialist services.

3. The regional hospital board for each of the said areas numbered 1 to 14 in column (1) of the schedule to this order shall be known by the title set out in column (2) of the said schedule opposite the number in column (1).

4. Each board shall consist of a chairman appointed by the Minister and such number of other members as is shown in column (3) of the schedule hereto opposite the number of the area ; and the said members shall be appointed in accordance with the provisions of Part I of the Third Schedule to the National Health Service Act, 1946.

5. The original chairman and members of the said boards appointed in accordance with article 4 of this order shall be the following :—

(*Here follows List of Names* [2]).

[1] S. R. & O. 1946 (No. 2185) I, p. 1056.

[2] To print the names as given in the Order would be misleading, as constitution of Boards subject to change by equal thirds annually from 31st March, 1949, and otherwise by reason of resignations, deaths, etc.—S. R. S.

SCHEDULE

(1) Number of Area	(2) Title of Board	(3) Number of members (excluding Chairman)
1	The Newcastle Regional Hospital Area	29
2	The Leeds Regional Hospital Area	23
3	The Sheffield Regional Hospital Area	30
4	The East Anglian Regional Hospital Area ...	25
5	The North-West Metropolitan Regional Hospital Area	28
6	The North-East Metropolitan Regional Hospital Area	21
7	The South-East Metropolitan Regional Hospital Area	23
8	The South-West Metropolitan Regional Hospital Area	25
9	The Oxford Regional Hospital Area	22
10	The South Western Regional Hospital Area ...	28
11	The Welsh Regional Hospital Area	31
12	The Birmingham Regional Hospital Area	28
13	The Manchester Regional Hospital Area	28
14	The Liverpool Regional Hospital Area	23

(S. R. & O. 1947, No. 1298)

The National Health Service (Regional Hospital Boards, etc.) Regulations, 1947

(Made 24th June, 1947.)

The Minister of Health, in exercise of his powers under sections 11 and 74 of and the Third Schedule to the National Health Service Act, 1946, and of all other powers enabling him in that behalf hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Regional Hospital Boards, etc.) Regulations, 1947, and shall come into operation on the date hereof.

2.—(i) In these regulations " the Act " means the National Health Service Act, 1946, " the Minister " means the Minister of Health, " hospital board " means a regional hospital board, " management committee " means a hospital management committee and " board of governors " means a board of governors of a teaching hospital.

(ii) The Interpretation Act, 1889[1], applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3.—(i) One-third, as near as may be, of the original members of a hospital board shall be appointed for a period ending on the 31st day of March, 1949, another third, as near as may be, for a period ending on the 31st day of March, 1950 and the remainder for a period ending on the 31st day of March, 1951.

(ii) Paragraph (i) of this regulation shall apply to the appointment of the original members of a management committee or a board of governors save that for the years 1949, 1950 and 1951 mentioned therein there shall be substituted respectively the years 1950, 1951 and 1952.

(iii) Subject as aforesaid the term of office of members of the said bodies shall be three years expiring on the 31st day of March in any year.

(iv) A member may resign on giving notice in writing to the Minister, or in the case of a member of a management committee, to the hospital board.

(v) A person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor was appointed.

(vi) A member shall on the expiration of his term of office be eligible for re-appointment.

(vii) If a member has not attended a meeting of the board or committee to which he belongs or a committee or sub-committee thereof for a period of six months the Minister, or in case of a management committee the appropriate hospital board, shall unless satisfied that the absence was due to illness or other reasonable cause declare that his seat on the board or committee has become vacant.

(viii) Subject to paragraphs (ii), (iii) and (v) of the proviso to subsection (1) of section 59 of the Local Government Act, 1933[2], the provisions of paragraphs (*b*) and (*e*) of that subsection (which disqualify a person for being elected or being a member of a local authority if he has been adjudged bankrupt or made a composition or arrangement with his creditors or has been sentenced to imprisonment for not less than three months without the option of a fine) shall apply as if the section related to membership of a hospital board, management committee or board of governors.

(ix) A member, being either—

(*a*) A person who has held any paid appointment or office, or other place of profit in the disposal of a hospital board,

[1] 52 & 53 Vict., c. 63.

[2] 23 & 24 Geo. 5, c. 51.

management committee, board of governors, or local health authority and who has been dismissed from such appointment, office or other place of profit, or

(*b*) a person whose name has been included in any list prepared under Part IV of the Act, and whose name has been removed from the list under the provisions of section 42 of the Act,

shall forthwith cease to be a member.

(x) A member, being either—

(*a*) A person who has held any paid appointment or office, or other place of profit in the disposal of a hospital board, management committee, board of governors or local health authority, and who has resigned from such appointment, office or other place of profit, or

(*b*) a person whose name has been included in any list prepared under Part IV of the Act, and whose name has been withdrawn from the list on his own application,

shall, if the Minister so directs, forthwith cease to be a member.

(xi) If a hospital board, management committee, or board of governors shall pass a resolution that in their opinion the conduct of a member is prejudicial to the effective performance of the functions of the board or committee, that member shall, if the Minister so directs, cease to be a member.

4.—(i) A hospital board or a board of governors may, and if so directed by the Minister shall, appoint committees, and a management committee may, and if so directed by the Minister or the hospital board concerned shall, appoint sub-committees, in either case consisting wholly or partly of members of those bodies, for the exercise on their behalf of any of their functions, subject to such restrictions or conditions as they may think fit or as the Minister, or in the case of a management committee, the hospital board concerned may direct.

(ii) A body appointing a committee or sub-committee under this regulation, may, subject to such directions as may be given by the Minister or, in the case of a management committee by the hospital board concerned, make, vary and revoke standing orders respecting the quorum, proceedings and place of meeting of the committee or sub-committee, but subject to any such standing order the quorum, proceedings and place of meeting shall subject as aforesaid be such as the committee or sub-committee may determine.

5. The meetings and proceedings of a hospital board, management committee or board of governors shall be conducted in accordance with the rules set out in the schedule to these regulations.

SCHEDULE

Rules as to meetings and proceedings of hospital boards, management committees and boards of governors

1. The first meeting shall be held on such day and at such place as may be fixed by the chairman, and shall be convened by him.

2. A vice-chairman may be elected who shall continue in office until the expiration of his term of membership.

3. (i) At any meeting the chairman, if present, shall preside.

(ii) If the chairman is absent from the meeting the vice-chairman, if present, shall preside.

(iii) If both the chairman and vice-chairman are absent, such member as the members present shall choose shall preside.

4. (i) The chairman may call a meeting at any time.

(ii) If the chairman refuses to call a meeting after a requisition for that purpose, signed by six members, has been presented to him, or if, without so refusing, the chairman does not call a meeting within seven days after such requisition has been presented to him, any six members may forthwith call a meeting.

(iii) Three clear days at least before a meeting, a summons to attend the meeting, specifying the business to be transacted thereat, and signed by the chairman or by the secretary or clerk, shall be left at or sent by post to the usual place of residence of every member :

Provided that want of service of the summons on any member shall not affect the validity of a meeting :

Provided also that in the case of a meeting called by members in default of the chairman, the summons shall be signed by those members and no business shall be transacted at the meeting other than that specified in the summons.

5. Every question at a meeting shall be determined by a majority of the votes of the members present and voting on the question and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

6. The names of the members present at a meeting shall be recorded.

7. No business shall be transacted at a meeting unless at least one-fourth of the whole number of members are present.

8. The minutes of the proceedings of a meeting shall be drawn up and entered in a book kept for that purpose and shall be signed at the same or next ensuing meeting by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

9. The provisions of the Local Authorities (Admission of the Press to Meetings) Act, 1908,[1] shall apply to the meetings of a hospital board as they apply to the meetings of a local authority as defined by that Act.

10. A hospital board, management committee or board of governors shall make, and may vary or revoke standing orders for the regulation of their proceedings and business, which shall in particular include provision that, subject to such exceptions and qualifications as may be specified in the standing orders, if a member has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter

[1] 8 Edw. 7, c. 43.

and is present at a meeting at which the contract or other matter is the subject of consideration he shall at the meeting as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter.

EXPLANATORY NOTE

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

The regulations provide for the appointment and term of office of members of Regional Hospital Boards, Hospital Management Committees and Boards of Governors of teaching hospitals and for the proceedings of their meetings.

(S. R. & O. 1947, No. 1330)

The National Health Service (Travelling Allowances, etc.) Regulations, 1947

(Made 26th June, 1947)

The Minister of Health, in pursuance of his powers under the National Health Service Act, 1946, hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Travelling Allowances, etc.) Regulations, 1947, and shall come into operation on the date hereof.

2.—(1) In these regulations, unless the context otherwise requires, the expression " Minister " means the Minister of Health, and the expression " the Act " means the National Health Service Act, 1946.

(2) The Interpretation Act, 1889 [1], applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3.—(1) The following bodies constituted under the Act, namely the Regional Hospital Boards, the Hospital Management Committees, the Boards of Governors of Teaching Hospitals and the Executive Councils, may make to their members or to the members of any committee thereof, and in the case of an Executive Council to the members of the Ophthalmic Services Committee payments in respect of loss of remunerative time in accordance with the rules contained in Part I of the Schedule hereto, payments in respect of travelling expenses in accordance with the rules contained in Part II of the said Schedule and payments in respect of subsistence expenses

[1] 52 & 53 Vict., c. 63.

in accordance with the rules contained in Part III of the said Schedule :

Provided that payments in respect of travelling and subsistence expenses shall not be made by a Regional Hospital Board, a Hospital Management Committee, or a Board of Governors of a Teaching Hospital, unless the Minister shall be of the opinion that the special circumstances of the Board or Committee justify such payments and notify the Board or Committee accordingly :

Provided further that payments in respect of travelling and subsistence expenses shall not be made by an Executive Council unless the Minister shall be of the opinion that the special circumstances of the area of the Council justify such payments and notify that Council accordingly.

(2) Any reference in this regulation and in the Schedule hereto to a committee of a body shall be deemed where that body is itself a committee to be a reference to a sub-committee thereof.

4.—(1) The Minister may pay to the members of the Tribunal constituted under section 42 of the Act, to the members of the Medical Practices Committee and to the members of the Dental Estimates Board such remuneration for their services as he may, with the consent of the Treasury, determine, and may make to such members payments in respect of travelling and subsistence allowances in accordance with the rules contained in Parts II and III of the Schedule hereto.

(2) The Minister may make to members of the Central Health Services Council or any committee thereof and of any Standing Advisory Committee or any sub-committee thereof, payments in respect of loss of remunerative time in accordance with the rules contained in Part I of the Schedule hereto, payments in respect of travelling expenses in accordance with the Rules contained in Part II of the said Schedule and payments in respect of subsistence expenses in accordance with the rules contained in Part III of the said Schedule.

5. The making of any payment under these regulations shall be conditional on—

(*a*) certification by the member—

(i) that, so far as travelling and subsistence allowances are concerned, the expenses were actually and necessarily incurred whilst engaged on the business of the National Health Service, and

(ii) that any claim for payment in respect of loss of remunerative time is in respect of actual financial loss sustained whilst engaged on the business of the National Health Service ;

and on—

(*b*) the observance of such conditions as the body authorised to make the payment may, in their discretion or on the Minister's direction, call for or impose.

SCHEDULE

Part I

Rules with respect to payments for loss of remunerative time

The sum paid shall not exceed such amount as is required to indemnify a member against loss of remunerative time in attending meetings of the body or any committee thereof or incurred on business approved by the body or committee to which the member belongs and shall in no case exceed 20s. for any one day of 24 hours.

Part II

Rules with respect to the payment of travelling expenses

1. The payment shall be made in respect of expenses incurred by a member in attending meetings of the body or committee to which the member belongs or in travelling on business approved by the body or committee.

2. Except as provided in paragraph 7 below the sum paid shall not exceed the amount disbursed by the member.

3. First class fares shall be payable but members shall take the fullest possible advantage of any available cheap fares.

4. Subject as provided in the next following paragraph, taxi or cab fares shall not be paid if an adequate public service is available but a member using a taxi or cab shall be entitled to claim the sum he would have been paid had he travelled by such a service.

5. Taxi or cab fares shall be payable in cases of urgency or in other cases in which transport is reasonably required and an adequate public service is not available.

6. A member making an overnight journey by rail and engaging sleeping car accommodation may receive the cost but any subsistence allowances payable to him for that night shall be reduced by one-third.

7. If the member uses his private motor vehicle in circumstances which involve a substantial saving in his time and are otherwise reasonable, or where it is in the interests of the body that the member should use his private motor vehicle in preference to a public service, the following mileage allowances shall be payable :—

Motor cars 6d. a mile for the first 2,880 miles in any year and thereafter 3d. a mile.

Tri-cars 3d. a mile for all mileage covered.

Motor cycles (with or without side-cars) 2¼d. a mile.

Motor-assisted pedal cycles and vehicles of similar type 1½d. a mile.

If a member uses a private motor vehicle in circumstances where travel by a public service would be appropriate, a mileage allowance of 1½d. a mile shall be payable, irrespective of the type of vehicle.

Where other members are conveyed in the same vehicle on the business of the National Health Service, and where their fares by a

public service would otherwise be payable under these regulations, an allowance of ½d. a mile for each passenger carried shall be payable.

8. In this part of this Schedule "public service" refers to railways, steamships, omnibuses and tramways.

Part III

Rules with respect to the payment of subsistence allowances

1. An allowance not exceeding 30s. shall be payable in respect of each night when a member is necessarily absent from his home or place of business on the business of the body or committee. The allowance shall be reduced to 25s. 6d. a night after the first seven nights at one place, and any case in which a member is likely to spend, or does spend, more than 28 nights in one place shall be reported to the Minister who shall fix a special rate in accordance with the circumstances.

2. A night allowance shall be deemed to cover a single period of absence of 24 hours.

3. A day allowance in respect of duties not involving a night's absence shall be payable at the rate of 3s. 6d. when a member is necessarily absent from his home or place of business for more than five hours but not more than eight hours and at the rate of 8s. 4d. when his absence exceeds eight hours.

(S. R. & O. 1947, No. 1755)

The National Health Service (Superannuation) Regulations, 1947 [1]

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and Interpretation.

PART I

PROVISIONS RELATING TO OFFICERS EMPLOYED BY BODIES CONSTITUTED UNDER THE ACT AND OTHER OFFICERS ENGAGED IN HEALTH SERVICES OTHERWISE THAN IN THE EMPLOYMENT OF LOCAL HEALTH AUTHORITIES OR OTHER LOCAL AUTHORITIES

2. Application.
3. Participation in superannuation benefits.
4. Contributions.
5. Officer's pension and retiring allowance.
6. Scales of pension and retiring allowance.
7. Injury allowance.
8. Short service gratuity.

[1] A summary of the general effect of these Regulations is given on p. 311 *et seq.* They are also the subject of explanatory pamphlets and leaflets prepared by the Ministry of Health, setting out the general effect and also in some greater detail the position of transferred officers, obtainable from H.M. Stationery Office. Reference over to amending regulations published whilst this work was in the press are given by marginal notes. See also p. 449 *et seq.*

9. Allocation of part of pension or injury allowance to spouse or dependant.
10. Death gratuity.
11. Widow's pension.
12. Power to compound small annual benefits.
13. Meaning of service.
14. Reckoning of contributing service and non-contributing service.
15. Special provisions relating to service under the Act of 1909, the Act of 1937 or a local Act scheme.
16. Method of calculating service, contributing service and non-contributing service.
17. Meaning of average remuneration.
18. Return of contributions.
19. Calculation of interest on contributions.
20. Conditions attaching to grant of pension or injury allowance.
21. Pensioner accepting further employment.
22. Option to transferred officers to retain rights corresponding with those enjoyed prior to transfer.
23. Benefits of transferred officers who do not exercise option to retain previous rights.
24. Persons subject to non-statutory superannuation schemes and arrangements.
25. Supplementary payments in the case of special classes of officers.
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27. Holders of joint appointments.
28. Female Nurses and Physiotherapists, Midwives and Health Visitors.
29. Mental Health Officers.
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PART II

MEDICAL AND DENTAL PRACTITIONERS

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39. Application.
40. Extension and modification of the Act of 1937 and local Act schemes.
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PART V

MISCELLANEOUS

43. Officers holding other employment.
44. Reckoning of service on transfer to other employment.
45. Persons subject to non-statutory superannuation schemes.
46. Rights on transfer to non-statutory superannuation schemes and approved employment.
47. } Transfer values payable to the Minister.
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49. Transfer values payable by the Minister.
50. Persons engaged on war service.
51. King Edward VII Welsh National Memorial Association Superannuation Fund.
52. Insurance Committee Officers' Superannuation Fund.
53. Determination of questions.
54. Amendment of the Teachers Acts.
55. Special provisions affecting local authorities in relation to officers who have served as teachers.
56. Employment of officer to be treated as approved external service or as qualifying service under the Teachers Acts in special cases.
57. Amendment of the Act of 1937 and local Act schemes.
58. Amendment of the Pensions (Increase) Act, 1944.
59. Amendment of the Superannuation Act, 1946.
60. Repeals and Savings.

SCHEDULES

FIRST SCHEDULE—Allocation of part of pension or injury allowance.
SECOND SCHEDULE—Table A—Reduction of widow's pension. Table B—Increase of widow's pension.
THIRD SCHEDULE—Reckoning of service or a period of contribution under a local Act scheme.
FOURTH SCHEDULE—Additional contributory payments.
FIFTH SCHEDULE—Ascertainment of liabilities of which superannuation funds are relieved on the appointed day.
SIXTH SCHEDULE—Provisions for the calculation of transfer values payable to the Minister in respect of service under the Act of 1909, and directions for the use of the subjoined tables in connexion therewith.
SEVENTH SCHEDULE—Provision for the calculation of transfer values payable by the Minister, and directions for the use of the subjoined tables in connexion therewith.
EIGHTH SCHEDULE—Reduction of pension.
NINTH SCHEDULE—Enactments repealed.

The Minister of Health, in exercise of the powers conferred on him by subsection (1) of section 67 of the National Health Service Act,

1946, hereby makes the following regulations in the terms of a draft duly approved by resolution of each House of Parliament :—

Citation and Interpretation

1.—(1) These regulations may be cited as the National Health Service (Superannuation) Regulations, 1947.

(2) The Interpretation Act, 1889,[1] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

" the Act " means the National Health Service Act, 1946 ;

" the Act of 1909 " means the Asylums Officers' Superannuation Act, 1909,[2] as amended by the Asylums and Certified Institutions (Officers Pensions) Act, 1918 [3] ;

" the Act of 1922 " means the Local Government and other Officers' Superannuation Act, 1922 [4] ;

" the Act of 1925 " means the Teachers (Superannuation) Act, 1925 [5] ;

" the Act of 1937 " means the Local Government Superannuation Act, 1937 [6] ; or that Act as applied by or by virtue of any other enactment or as extended or modified by these regulations ;

" the Superannuation Acts " means the Superannuation Acts, 1834–1946 ;

" the Teachers Acts " means the Teachers (Superannuation) Acts, 1918–1946 ;

" additional contributory payment " has the same meaning as in the Act of 1937, except that, in addition, it means any payment made for the purposes of regulation 13 (9), 13 (10), 14 (4), 14 (5) or 40 (3) ;

" appointed day " means such day as His Majesty may by Order-in-Council appoint under section 79 (1) of the Act, other than any day so appointed for the purposes of different provisions of the Act or for the repeal or amendment of different enactments by the Act ;

" assistant practitioner " means an employee of a medical practitioner or dental practitioner on the list of an Executive Council, being himself a medical practitioner or dental practitioner wholly or mainly engaged in assisting his employer in the actual discharge of his duties as such practitioner ;

" average remuneration " has the meaning assigned to it by regulation 17 ;

[1] 52 & 53 Vict., c. 63.
[2] 9 Edw. 7, c. 48.
[3] 8 & 9 Geo. 5, c. 33.
[4] 12 & 13 Geo. 5, c. 59.
[5] 15 & 16 Geo. 5, c. 59.
[6] 1 Edw. 8 & 1 Geo. 6, c. 68.

" contributory employee " has the same meaning as in the Act of 1937 ;

" contributing service " means service which is reckonable as contributing service in accordance with regulation 14 or 15 ;

" employing authority " means a Regional Hospital Board or Board of Governors of a teaching hospital, an Executive Council or a joint committee of Executive Councils constituted under section 31 (4) of the Act, and any such other body constituted under the Act as the Minister may approve ;

" established service " means service in the capacity of a civil servant for the purposes of the Superannuation Acts, and the term " established civil servant " shall be construed accordingly ;

" local Act authority," " local Act contributor " and " local Act scheme " have the same meanings respectively as they have in the Act of 1937 ;

" local health authority " includes a joint board constituted under section 19 of the Act ;

" mental health officer " means an officer on the medical or nursing staff of a hospital used wholly or partly for the treatment of mental patients or an institution so used for the treatment of defectives who devotes the whole or substantially the whole of his time to the treatment or care of such patients or defectives, and such other classes or descriptions of officers employed in such hospitals or institutions as aforesaid as the Minister may designate[1] ;

" national service " means service in the armed forces of the Crown by a person called up therefor under the provisions of the National Service Acts, 1939–1946, as amended by any subsequent enactment, or work of a civil character and under civilian control undertaken or training undergone by a person as a condition of his not being registered as a person liable to be called up for service under those provisions[1] ;

" non-contributing service " means service which is reckonable as non-contributing service in accordance with regulation 14 (3) ;

" pensionable age " in relation to a female nurse or physiotherapist, midwife or health visitor, or a mental health officer means the age of sixty years, in relation to a medical practitioner or dental practitioner on the list of an Executive Council means the age of sixty-five years or such later age as the Minister may in any particular case allow and in relation to any other officer means the age of sixty-five years ;

" practitioner " means a medical practitioner or dental practitioner on the list of an Executive Council, and includes an assistant practitioner and a person rendering part-time specialist services pursuant to section 3 of the Act, unless, in the case of a

[1] For addendum, see pp. 449–50.

person who devotes substantially the whole of his time to the performance of those services, the Minister otherwise directs ;

" remuneration " means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime or any allowances paid to him to cover the cost of providing office or laboratory accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment ;

" service " has the meaning assigned to it by regulation 13 ; and

" war service " means war service within the meaning of the Local Government Staffs (War Service) Act, 1939,[1] or war service or a period of war service within the meaning of the Teachers Superannuation (War Service) Act, 1939,[2] or service in any of the naval, military or air forces of the Crown, or employment for war purposes, within the meaning of the Superannuation Schemes (War Service) Act, 1940.[3]

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

(5) Unless the context otherwise requires, references in these regulations to officers of an employing authority include references to persons who are deemed for the purposes of these regulations to be in the employment of an employing authority or of a body which is deemed to be an employing authority, and any other provisions relating to employment by or under an employing authority shall be construed accordingly.

PART I

Provisions Relating to Officers Employed by Bodies Constituted under the Act and other Officers Engaged in Health Services Otherwise than in the Employment of Local Health Authorities or other Local Authorities

Application

2.—(1) This part of these regulations shall apply to the following officers of an employing authority who have attained the age of eighteen years—

[1] 2 & 3 Geo. 6, c. 94.
[2] 2 & 3 Geo. 6, c. 95.
[3] 3 & 4 Geo. 6, c. 26.

(*a*) every whole-time officer whose duties are wholly or mainly administrative, professional or clerical ;

(*b*) any other whole-time officer who enters their employment within twelve months after leaving any such employment as is mentioned in regulation 13 (3), or, if he left that employment in order to undertake war service or, being an officer of an employing authority, in order to undertake national service, within six months after the termination of that service ;

(*c*) every part-time officer who is transferred under the Act to their employment, and who immediately before being so transferred was a contributory employee, local Act contributor or subject to the Act of 1909 ;

(*d*) any other officer, whether whole-time or part-time, who is transferred under the Act to their employment, or who enters their employment in consequence of the acquisition by the Minister under section 58 of the Act of a hospital at or for the purposes of which he was employed at the date of acquisition, and who, immediately before being transferred to or entering their employment as aforesaid, had reasonable expectations of superannuation benefits on retirement from his employment ;

(*e*) any other whole-time officer, upon the expiration of a period of two years, after attaining the age of eighteen years, without a break of more than one month at any one time, in the employment of that or any other employing authority, as such whole-time officer or as such a part-time officer as is mentioned in sub-paragraph (*h*) of this paragraph ;

(*f*) any other part-time officer whose duties are wholly or mainly administrative, professional or clerical, and who devotes the rest of his time to employment under any employing authority, local authority or governing body of a medical school, or who falls within any class or description of persons which the Minister may designate ;

(*g*) any other part-time officer who enters their employment within twelve months after leaving any such employment as is mentioned in regulation 13 (3) or, if he left that employment in order to undertake war service or, being an officer of an employing authority, in order to undertake national service, within six months after the termination of that service, and who devotes the rest of his time to employment under any employing authority, local authority, or governing body of a medical school, or who falls within any class or description of persons which the Minister may designate ; and

(*h*) any other part-time officer who devotes the rest of his time to employment under any employing authority, local authority or governing body of a medical school, or who falls within any class or description of persons which the Minister may designate, upon the expiration of a period of two years, after attaining the age of eighteen years, without a break of more than one month at any one time, in the employment of that or any other employing authority, as such part-time officer or as such a whole-time officer as is mentioned in sub-paragraph (*e*) of this paragraph :

Provided that—

(i) the provisions of sub-paragraph (*c*) or (*d*) of this paragraph shall apply to an officer transferred to or entering the employment of the employing authority in the circumstances therein mentioned, only so long as he remains in their employment, whether in the same post or any other post ;

(ii) for the purposes of sub-paragraphs (*e*) and (*h*) of this paragraph, account shall be taken as if it were employment under an employing authority of—

(*i*) any employment held by a person transferred under the Act before the date of transfer under any local authority or governing body of a voluntary hospital transferred to the Minister by the Act, including any war service undertaken by that person on ceasing to hold that employment ;[1]

Amended, *vide* p. 450.

(*ii*) any employment at or for the purposes of a hospital acquired by the Minister under section 58 of the Act held by a person who enters the employment of an employing authority in consequence of such acquisition, including any war service or national service undertaken by that person on ceasing to hold that employment ; and

(*iii*) any national service undertaken by a person on ceasing to hold any such employment under an employing authority as is mentioned in sub-paragraph (*e*) or (*h*) of this paragraph ;

and the term " officer " shall be construed accordingly.

(2) Notwithstanding anything in the foregoing provisions of this regulation, this part of these regulations shall not apply to persons in contributory service under the Teachers Acts in any institution for defectives vested in the Minister. [For exclusion of Chaplains to whom Clergy Pensions Measure, 1948, applies, *vide*, p. 449.]

[1] Including insurance and joint insurance committees, etc. (*vide* p. 450.)

Participation in Superannuation Benefits

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

Contributions

4.—(1) For the purpose of defraying the cost of the superannuation benefits provided by these regulations, there shall, subject to the provisions of these regulations, be paid in respect of every officer who has not attained pensionable age, in relation to his employment by an employing authority, the following contributions, namely :—

(*a*) an amount to be paid by the officer equal to six per cent. of the amount of his remuneration for the time being ; and

(*b*) unless the Minister dispenses with compliance with this provision in the case of any authority, an amount to be paid by the employing authority equal to eight per cent. of the said remuneration, or, if that remuneration is at any time reduced or suspended, of the remuneration which would be taken into account under the provisoes to regulation 17 in respect of the period of reduction or suspension, were the officer's average remuneration being calculated for a period which included that period :

Provided that in the case of an officer whose employment is by way of manual labour, five per cent. shall be substituted for six per cent. in sub-paragraph (*a*) of this paragraph, and six per cent. shall be substituted for eight per cent. in sub-paragraph (*b*).

(2) Where an officer, owing to transfer to other employment under the same employing authority or an alteration in the remuneration of his employment, suffers a reduction in his remuneration, he shall continue to make contributions under this regulation as if his remuneration had not been reduced, unless he gives notice in writing to the employing authority, within one month after the reduction, or such longer period as the Minister may in any particular case allow, that he does not wish this provision to apply to him.

Amended, *vide* p. 450.

(3) An officer who is on leave of absence from duty, otherwise than by reason of illness or injury, with reduced remuneration or without remuneration, shall continue to make contributions under this regulation on the remuneration on which he was making contributions immediately before he went on leave of absence, and, notwithstanding the provisions of any enactment or scheme, contributions by and in respect of him shall not be made during his

absence, except in accordance with the provisions of this paragraph, for the purpose of his participation in superannuation benefits.

(4) An officer who, by reason of the suspension of his remuneration owing to leave of absence from duty on account of illness or injury, is not required to make any contributions in respect of the period of such absence or any part thereof shall nevertheless be deemed for the purposes of regulation 14 (1) (*a*) to have made the contributions required by these regulations in respect of that period or part thereof.

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

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

(7) Notwithstanding any other provisions of these regulations, an officer who ceases to be employed in order to undertake national service shall, as a condition of becoming entitled to reckon that service for the purposes of these regulations, if his service pay equals or exceeds the remuneration of his former employment, make the like contributions under this regulation as if he had continued to follow that employment and to have been entitled to the remuneration thereof, and the employing authority shall make the like contributions in respect of him as they would have been liable to make if he had so continued to follow his employment as aforesaid.

Amended, *vide* p. 450.

Officer's Pension and Retiring Allowance

5. An officer of an employing authority shall be entitled, on ceasing to be employed by them, to receive from the Minister—

(*a*) an annual pension, if either—

(i) he has completed ten years service and is incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body ; or

(ii) he has attained the age of sixty years and completed ten years service ; and

(*b*) a lump sum retiring allowance, if he satisfies sub-paragraph (i) of paragraph (*a*) of this regulation, or has attained the age of sixty years and completed five years service.

Scales of Pension and Retiring Allowance

6.—(1) The pension to be paid to an officer shall, subject to the provisions of these regulations, be on the following scale, that is to say—

(*a*) in respect of each year of contributing service, one-eightieth of his average remuneration ; and

(*b*) in respect of each year of non-contributing service, one one-hundred-and-sixtieth of his average remuneration :

Provided that the pension, apart from any reduction thereof under regulation 30, shall not exceed forty-eightieths of the officer's average remuneration, and shall not in the case of a pension payable under regulation 5 (*a*) (i) be less than twenty-eightieths of such remuneration, or one-eightieth of such remuneration in respect of each year of contributing service which he could have completed before attaining pensionable age, had he continued to be an officer, and one one-hundred-and-sixtieth of such remuneration in respect of each year of non-contributing service, whichever is the less.

(2) The retiring allowance to be paid to an officer shall, subject to the provisions of these regulations, be a sum equal to the aggregate of the following amounts, namely, three-eightieths of his average remuneration in respect of each year of contributing service, and three one-hundred-and-sixtieths of such remuneration in respect of each year of non-contributing service :

Provided that—

(*a*) in the case of a married male officer in respect of whose service a widow's pension may become payable under these regulations, the amount of the allowance shall be a sum equal to the aggregate of the following amounts, namely, one-eightieth of his average remuneration in respect of each year of contributing service and one one-hundred-and-sixtieth of such remuneration in respect of each year of non-contributing service ;

(*b*) in the case of an officer who is a widower or who is divorced or judicially separated from his wife, the wife's death or the divorce or separation having taken place on or after the date on which he became subject to these regulations, the amount of the allowance shall be a sum equal to the aggregate of the following amounts, namely—

(i) three-eightieths of his average remuneration in respect of each year of contributing service since the date of his wife's death or the divorce or separation, as the case may be ;

(ii) one-eightieth of such remuneration in respect of each year of contributing service before that date ;

(iii) three one-hundred-and-sixtieths of such remuneration in respect of each year of non-contributing service

since the date of his wife's death or the divorce or separation as the case may be ; and

(iv) one one-hundred-and-sixtieth of such remuneration in respect of each year of non-contributing service before that date ;

(*c*) if the contributing service of an officer who becomes entitled to a retiring allowance, together with his non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the sum to be calculated under the foregoing provisions of this paragraph by reference to contributing service and non-contributing service shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned at double its actual length ; and

Amended, *vide* p. 450.

(*d*) in the case of an officer to whom no pension is payable, if the amount of the allowance, calculated as aforesaid, is less than the amount of his contributions, together with compound interest thereon, the allowance shall be increased by the amount of the deficiency.

(3) The pension to be paid to an officer whose service includes service as a practitioner shall be on the following scale, that is to say—

(*a*) in respect of each year of contributing service otherwise than as a practitioner, one-eightieth of his average remuneration ;

(*b*) in respect of each year of non-contributing service, one one-hundred-and-sixtieth of his average remuneration ; and

(*c*) in respect of each year of contributing service as a practitioner, one and one-half per cent. of his remuneration as such for that year :

Provided that—

(i) in the case of an officer whose contributing service, together with his non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the pension shall be an amount obtained by multiplying the amount of the pension which would have been payable apart from this proviso by forty, and dividing the product by the number of years of actual service, any non-contributing service being reckoned as aforesaid ; and

Amended, *vide* p. 450.

(ii) in the case of an officer who is entitled to a pension under regulation 5 (*a*) (i), and whose service is less than twenty years, any non-contributing service being reckoned at half its actual length, the pension shall

be an amount obtained by multiplying the amount of the pension which would have been payable apart from this proviso by such number of years service, not exceeding twenty, as he could have completed before attaining pensionable age, any non-contributing service being reckoned as aforesaid, and dividing the product by the number of years of actual service, any non-contributing service being reckoned as aforesaid.

(4) The retiring allowance to be paid to an officer whose service includes service as a practitioner shall be a sum equal to the aggregate of the following amounts, namely—

(*a*) in respect of each year of contributing service otherwise than as a practitioner, three-eightieths of his average remuneration ;

(*b*) in respect of each year of non-contributing service, three one-hundred-and-sixtieths of his average remuneration ; and

(*c*) in respect of each year of contributing service as a practitioner, four and one-half per cent. of his remuneration as such for that year :

Provided that—

(i) in the case of a married male officer in respect of whose service a widow's pension may become payable under these regulations, one-eightieth shall be substituted for three-eightieths in sub-paragraph (*a*) of this paragraph, one one-hundred-and-sixtieth shall be substituted for three one-hundred-and-sixtieths in sub-paragraph (*b*), and one and one-half per cent. shall be substituted for four and one-half per cent. in sub-paragraph (*c*) ;

(ii) in the case of an officer who is a widower or who is divorced or judicially separated from his wife, the wife's death or the divorce or separation having taken place on or after the date on which he first became subject to these regulations, whether by virtue of this part or part II, one-eightieth shall be substituted for three-eightieths in sub-paragraph (*a*) of this paragraph in relation to each year of contributing service otherwise than as a practitioner before the date of his wife's death or the divorce or separation, as the case may be, one one-hundred-and-sixtieth shall be substituted for three one-hundred-and-sixtieths in sub-paragraph (*b*) in relation to each year of non-contributing service, and one and one-half per cent. shall be

substituted for four and one-half per cent. in sub-paragraph (*c*) in relation to each year of contributing service as a practitioner before the said date ;

(iii) in the case of an officer whose contributing service, together with his non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the amount of the allowance shall be an amount obtained by multiplying the amount of the allowance which would have been payable apart from this proviso by forty, and dividing the product by the number of years of actual service, any non-contributing service being reckoned as aforesaid ; and

Amended, *vide* p. 451.

(iv) in the case of an officer to whom no pension is payable, if the amount of the allowance, calculated as aforesaid, is less than the amount of his contributions, together with compound interest thereon, the allowance shall be increased by the amount of the deficiency.

Injury Allowance

7.—(1) Where an officer ceases to be employed in consequence of his being permanently incapacitated by an injury sustained by him in the actual discharge of his duty and without his own default, and specifically attributable to the nature of his duty, he shall be entitled to receive from the Minister an annual injury allowance of such amount, not exceeding two-thirds of his average remuneration, as the Minister considers reasonable, having regard to all the circumstances of the case, including any right to any benefit under the National Insurance (Industrial Injuries) Act, 1946,[1] or any other statutory right to benefit or compensation or any right to a pension, retiring allowance or gratuity, whether under these regulations or otherwise.

(2) An injury sustained while the officer is, with the express or implied permission of the employing authority, travelling as a passenger by any vehicle to or from his place of employment shall, notwithstanding that he is under no obligation to the employing authority to travel by that vehicle, be deemed to have been sustained in the actual discharge of his duty, if—

(*a*) the injury would have been deemed so to have been sustained had he been under such an obligation ; and

(*b*) at the time of the injury, the vehicle—

(i) was being operated by or on behalf of the employing authority by some other person by whom it was provided in pursuance of arrangements made with the employing authority ; and

[1] 9 & 10 Geo. 6, c. 62.

(ii) was not being operated in the ordinary course of a public transport service.

Short Service Gratuity

Amended, *vide* p. 451.

8. An officer who has completed more than five but less than ten years service, and who ceases to be employed through incapacity to discharge efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body shall, unless he is entitled to a retiring allowance, be entitled to receive from the Minister a short service gratuity of a sum equal to the amount of his average remuneration.

Allocation of part of Pension or Injury Allowance to Spouse or Dependant.

9.—(1) An officer, other than a married male officer in respect of whose service a widow's pension may become payable under these regulations, who becomes entitled to a pension or injury allowance may thereupon notify his desire, subject to and in accordance with the provisions of the first schedule, to surrender part of the pension or allowance in consideration of the grant of a pension to the spouse or any dependant of the officer on his death of such value as, according to Tables to be prepared from time to time by the Government Actuary, is actuarially equivalent at the date on which he ceased to be employed to the value of that part of the pension or allowance which is surrendered.

(2) If an officer, other than such a married male officer as aforesaid, not having reached pensionable age, would, if he ceased to be employed, be entitled to a pension, and has completed forty years contributing service or forty years contributing service and non-contributing service, the non-contributing service being reckoned at half its actual length, or if an officer, other than such a male married officer as aforesaid, having reached pensionable age, would, if he ceased to be employed, be entitled to a pension, he may, at any time before ceasing to be employed, notify his desire to surrender part of the pension in accordance with the provisions of the preceding paragraph, and if he dies before having become entitled to the pension but after having so notified his desire to surrender a part of the pension, he shall be deemed to have become entitled to the pension to which he would have become entitled had he retired on the day preceding the date of his death.

Death Gratuity

10. If—

(*a*) an officer dies, and at the date of his death he had completed five years service ;

(*b*) a person who has ceased to be an officer after completing five years service dies within twelve months after so ceasing to be an officer, or, if he ceased to be an officer in order to undertake national service, within six months after the termination of that service, without having received a return of contributions or become entitled to any other benefit under these regulations, and without having again become entitled to participate in superannuation benefits ; or

(*c*) a person dies after having become entitled to a pension or retiring or injury allowance or short service gratuity ;

then the Minister shall pay to his legal personal representatives a death gratuity of a sum equal to three-eightieths of his average remuneration in respect of each year of his contributing service and three one-hundred-and-sixtieths thereof in respect of each year of his non-contributing service, or the amount of his contributions, together with compound interest on such amount, or, except in the case mentioned in paragraph (*b*) of this regulation, his average remuneration, whichever is the greatest :

Provided that—

(i) in the case of a person in respect of whose death a widow's pension is payable under these regulations, the amount of the death gratuity shall be a sum equal to one-eightieth of his average remuneration in respect of each year of his contributing service and one one-hundred-and-sixtieth thereof in respect of each year of his non-contributing service ;

(ii) in the case of such a person as is mentioned in regulation 6 (3), for the references in the foregoing provisions of this regulation to a sum to be calculated by reference to a fraction of his average remuneration in respect of each year of service there shall, subject to the provisions of the next succeeding proviso, be substituted a reference to a sum obtained by the addition of the following amounts, namely :—

(*i*) in respect of each year of contributing service otherwise than as a practitioner, three-eightieths of his average remuneration, or if a widow's pension is payable under these regulations in respect of his death, one-eightieth thereof ;

(*ii*) in respect of each year of non-contributing service, three one-hundred-and-sixtieths of his average remuneration, or if a widow's pension is payable as

aforesaid, one one-hundred-and-sixtieth thereof; and

(*iii*) in respect of each year of contributing service as a practitioner, four and one-half per cent. of his remuneration as such for that year, or if a widow's pension is payable as aforesaid, one and one-half per cent. thereof;

(iii) if in the case of a person to whom the last preceding proviso applies the contributing service, together with the non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the sum obtained under the last preceding proviso shall be multiplied by forty, and the product divided by the number of years of actual service, any non-contributing service being reckoned as aforesaid;

Amended, *vide* p. 451.

(iv) if in the case of any person, other than a person to whom proviso (ii) applies, the contributing service, together with the non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the sum to be calculated by reference to contributing service and non-contributing service shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned at double its actual length; and

Amended, *vide* p. 450.

(v) in the case of a person who dies after having become entitled to a pension or retiring or injury allowance or short service gratuity, there shall be deducted from the death gratuity a sum equal to the aggregate amount of any payments made on account of that pension, allowance or short service gratuity, and in addition, if the person was entitled to a pension or injury allowance and had surrendered a part thereof, any sum which would have been paid on account thereof but for the surrender.

Widow's Pension

11.—(1) The widow of a person who was entitled to a pension or injury allowance, or the widow of an officer who had completed not less than ten years service, shall be entitled to receive from the Minister an annual widow's pension:

Provided that the foregoing provision shall not apply, in the former case if the marriage took place on or after the date on which the husband became entitled to the pension or allowance, or, in either case, if the husband, before ceasing to be employed or, if he

died while still an officer, before dying, had reached pensionable age or, not having reached pensionable age, would have been entitled to a pension on ceasing to be employed and had completed forty years contributing service, or forty years contributing service and non-contributing service, the non-contributing service being reckoned at half its actual length, and the marriage took place on or after the date on which he reached pensionable age or would have been so entitled to a pension as aforesaid, as the case may be, or if the wife was herself entitled to a pension under these regulations or became so entitled on the death of her husband, or if the husband and wife were judicially separated.

(2) The widow of such a person as is mentioned in regulation 10 (*b*) shall be entitled to the like benefit (if any) by way of widow's pension as would have been granted if her husband had died immediately before ceasing to be an officer.

(3) The amount of the widow's pension shall be as follows—

(*a*) in the case of the widow of an officer, one-third of the pension which would have been payable to the officer had he become entitled to a pension under regulation 5 (*a*) (i) on the day preceding his death ; and

(*b*) in the case of the widow of a person who was entitled to a pension or injury allowance, one-third of such pension or allowance :

Provided that—

(i) if in either case the age of the widow was less than that of her husband and she has no children or ceases to have any children included in her family within the meaning of the Family Allowances Act, 1945,[1] or her age was greater than that of her husband, the widow's pension shall be reduced or increased, as the case may require, where the case falls within Table A or Table B set out in the second schedule, by an amount calculated in accordance with that Table, and in any other case, by such an amount as shall be certified to be just by the Government Actuary ; and

(ii) if any such pension as is mentioned in sub-paragraph (*a*) of this paragraph would have been reduced under the provisions of regulation 30, no account shall be taken of the reduction, and any such pension as is mentioned in sub-paragraph (*b*) shall be deemed to be the pension that would have been payable but for any reduction under those provisions.

(4) A widow's pension shall cease to be payable to a widow if she

[1] 8 & 9 Geo. 6, c. 41.

remarries, or in respect of any period during which she is cohabiting with a man as his wife.

(5) If on the re-marriage or death of a widow to whom a widow's pension has been payable, the aggregate amount of the payments made to her, her husband or her husband's legal personal representatives by way of pension, retiring or injury allowance or death gratuity, is less than the amount of the death gratuity which would have been payable in respect of the death of her husband had no widow's pension been payable in respect thereof, there shall be paid to her or to her legal personal representatives, as the case may require, a sum equal to the deficiency.

Power to Compound Small Annual Benefits

12. Where any benefit payable under these regulations is an annual sum of an amount not exceeding twenty-six pounds, the Minister may discharge his liability in respect thereof by the payment of a lump sum representing the capital value of the annual sum.

Meaning of Service

13.—(1) For the purposes of these regulations the term " service " in relation to an officer of an employing authority means continuous employment under that authority as an officer, after attaining the age of eighteen years and before attaining pensionable age, and any other employment or any war service or national service which by or in pursuance of these regulations is reckonable as service in relation to his employment as such officer, but does not include, in the case of an officer who enters employment after having become entitled to receive superannuation benefits, whether under these regulations or otherwise, employment in respect of which he became entitled to those benefits.

(2) Where a person, before entering the employment in which he is an officer, had been entitled by virtue of any such employment as is mentioned in the next succeeding paragraph to participate in superannuation benefits, and on leaving that other employment any period of employment or any war service or national service would have been reckonable for the purpose of determining whether he was entitled to receive a superannuation benefit, that period of employment, war service or national service shall be reckonable as service in relation to the employment in which he is an officer, if he entered that employment within twelve months after leaving that other employment, or if he left that other employment in order to undertake war service or, being an officer of an employing authority,

in order to undertake national service, within six months after the termination of that service :

Provided that—

(*a*) the foregoing provision shall not apply to any officer who does not, within three months after entering their employment, give notice in writing to the employing authority of his previous period of employment and war service or national service (if any), and pay or repay to that authority an amount equal to any sum paid to him by way of return of contributions on or after his ceasing to hold that other employment, together with an amount equal to any income tax or equivalent sum which was deducted from his contributions in respect of such payment ; Amended, *vide* p. 451.

(*b*) in the case of a person who, before entering the employment in relation to which he is an officer, was employed in such employment as is mentioned in sub-paragraph (*c*) of the next succeeding paragraph—

(i) for the purposes of the foregoing provisions of this paragraph, the term " period of employment " shall include any period treated as a period of employment in contributory service or as a period of contributory service under the Teachers Acts ;

(ii) any period of approved external service within the meaning of the Teachers Acts, and any period of contributory service under any scheme made under section 21 (1) (*a*) of the Act of 1925 shall not be reckonable as service under these regulations, except for the sole purpose of determining whether he is entitled to any benefit thereunder ; and

(iii) any period of employment which was qualifying service within the meaning of the Act of 1925, and any period of employment which under section 12 (2) of that Act, would, by reason of the repayment of contributions, have been excluded in reckoning periods of contributory or recognised service for the purposes of Part II of the said Act shall be disregarded.

(*c*) in the case of such a person as is mentioned in the last preceding proviso who, before the first day of April, 1926, had been employed in full-time service as an organiser within the meaning of section 14 (1) of the Act of 1925, such period of employment as an organiser, and any period of employment before the said date as a teacher in recognised service shall, except for the purpose of determining whether

any benefit is payable under these regulations, be reckonable in whichever of the following ways is more advantageous to him, that is to say—

(i) his period of employment (if any) as a teacher in recognised service shall be reckonable in full, and his period of employment as an organiser shall be disregarded ; or

(ii) the period for which he was so employed in either of those capacities shall be reckonable at half its actual length ;

(*d*) in the case of a person who, before entering the employment in relation to which he is an officer, was an established civil servant, any part of his established service which is attributable to service which previously to his becoming an established civil servant had been non-contributing service under these regulations shall for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating any benefit to which he may become entitled be treated as being double its actual length ; and

Amended, *vide* p. 451.

(*e*) any period of employment which on a person's leaving such employment as is mentioned in sub-paragraph (*a*), (*b*) or (*d*) of the next succeeding paragraph would have been reckonable solely for the purpose of determining whether he was entitled to receive a superannuation benefit shall not be reckonable as service under these regulations except for the sole purpose of determining whether he is entitled to any benefit thereunder.

(3) The other employment referred to in the last preceding paragraph is—

(*a*) employment as an officer of an employing authority ;

(*b*) employment as an established civil servant ;

(*c*) employment as a person in contributory service under the Teachers Acts, otherwise than under any scheme made under section 21 (1) (*a*) of the Act of 1925, or otherwise than by virtue of section 13 (2) (*g*) of that Act ;

(*d*) employment subject to—

(i) the Act of 1909 ;

(ii) the Act of 1937 ;

(iii) a local Act scheme ;

(iv) the Insurance Committee Officers' Superannuation Scheme ; or

(v) any other scheme which the Minister, with the consent of the body administering the scheme, may approve.

(4) If under the last two preceding paragraphs there is reckonable any previous employment in the case of a person who becomes an officer of an employing authority after having been engaged in war service, and that war service would have been reckonable as service under the enactment or scheme to which he was subject before he ceased to be employed in order to undertake that war service, had he again become subject to that enactment or scheme on the termination thereof, the period of war service shall be reckonable as a period of service under these regulations.

(5) If an officer of an employing authority ceases to be employed in order to undertake national service and, on the termination of that service or within six months thereafter returns to the employment of any employing authority, the period of that service shall be reckonable as a period of service under these regulations :

Provided that if on or after so ceasing to be employed as aforesaid he received a return of contributions—

(*a*) no part of such period after the date of the return shall be reckonable as service ; and

(*b*) the part of such period before the date of the return shall only be reckonable if he pays or repays to the employing authority whose employment he has entered, within three months after entering their employment, an amount equal to the sum returned to him, together with an amount equal to any income tax which was deducted from his contributions in respect of such return.

(6) Where an officer to whom the last preceding paragraph applies—

(*a*) dies during his period of national service ; or

(*b*) is prevented, in consequence of being permanently incapacitated by injury or disease received or contracted during that period, from resuming employment under any employing authority ;

he shall be deemed to have returned to the employment of an employing authority immediately before his death or on the termination of that period of service, as the case may be.

For Reg. 6A, further as to National Service, *vide* p. 451.

(7) If a person becomes an officer of an employing authority by virtue of sub-paragraph (*e*) or (*h*) of paragraph (1) of regulation 2, or if such a person as is mentioned in either of those sub-paragraphs, before completing the period of two years therein mentioned, becomes an officer by virtue of sub-paragraph (*a*) or (*f*) of paragraph (1) of regulation 2 then, any previous periods of employment under any employing authorities which are included in the said period of two years, and any period of national service undertaken by the person on his ceasing to hold employment under any employing

authority which is included in that period of two years by virtue of proviso (ii) (*iii*) to paragraph (1) of regulation 2, shall be reckonable as service.

(8) In the case of a person who is transferred under the Act to the employment of an employing authority or who enters the employment of an employing authority in consequence of the acquisition by the Minister under section 58 of the Act of a hospital at or for the purposes of which he was employed at the date of acquisition, and who thereupon becomes an officer of that employing authority, there shall be reckonable as service, for the purpose of determining whether any benefit is payable to or in respect of him but not for the purpose of calculating any benefit to which he may become entitled, all periods of employment, not otherwise reckonable as service, after he attained the age of eighteen years, under any authority or body from which functions are transferred by the Act, or under an officer of such an authority or body or at or for the purposes of any hospital which has been transferred to or acquired by the Minister under the Act, and, if he left any such employment as aforesaid in order to undertake war service or, if that employment was at or for the purposes of a hospital acquired by the Minister under the Act, in order to undertake national service, and within six months after the termination of that service returned to any such employment as aforesaid, or entered the employment of an employing authority in circumstances in which regulation 50 applied, there shall also be reckonable as service for the purpose aforesaid the period of that war service or national service.

Amended, *vide* p. 452.

(9) If a person after ceasing to be an officer of an employing authority (other than a person in respect of whom a transfer value was paid by the Minister or a payment was made under regulation 46 (1), which transfer value or payment has not been refunded) enters the employment of that authority or any other employing authority in circumstances in which none of the preceding paragraphs of this regulation applies in his case, he shall be entitled, if he gives notice in writing to the employing authority within three months after entering their employment that he intends so to do, to make payments in accordance with the provisions of the fourth schedule, as if any employment, war service or national service which was reckonable as service at the date on which he ceased to be an officer, not being employment reckonable solely for the purpose of determining whether any benefit was payable under these regulations, was non-contributing service, and any period of such employment, war service or national service in respect of which such payments are made or are in the course of being made shall be reckonable as service.

(10) If an officer to whom the last preceding paragraph applies previously ceased to be an officer of an employing authority in order to undertake national service, the last preceding paragraph shall also apply in respect of the period of that service other than any part thereof after the date on which contributions may have been returned to him.

Reckoning of Contributing Service and Non-Contributing Service.

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

(*a*) service in respect of which he has made the contributions required by these regulations ;

(*b*) any previous employment reckonable as service which was—

(i) reckonable as established service under the Superannuation Acts ;

(ii) recognised or contributory service under the Teachers Acts, or was full-time service as an organiser before the first day of April, 1926 ;

(iii) service for the purposes of the Act of 1909 ;

(iv) contributing service under the Act of 1937, or the Insurance Committee Officers' Superannuation Scheme ;

(v) service or a period of contribution for the purposes of a local Act scheme ; or

(vi) employment under any other scheme approved by the Minister under regulation 13 (3) (*d*) (v) :

Provided that—

(*i*) in taking account of any service or period of contribution for the purposes of a local Act scheme, regard shall be had to the provisions of the third schedule ; and

(*ii*) if in the opinion of the Minister any such employment as is mentioned in sub-paragraph (*b*) (vi) of this paragraph is not equivalent to contributing service under these regulations, account shall only be taken of that employment to the extent that the Minister directs ;

(*c*) any period of employment, war service or national service in respect of which the officer has made or is in the course of making payments under paragraph (9) or (10) of regulation 13 ; and

(*d*) any other service which by virtue of these regulations is to be reckoned as contributing service.

(2) Any war service or national service which is reckonable as a period of service under paragraph (4) or (5) of regulation 13 in

For Reg. 14 (2A) *vide* p. 452.

relation to any officer shall be reckonable as a period of contributing service if his service immediately before such war service is so reckonable.

(3) There shall be reckonable as non-contributing service in relation to the employment of an officer by an employing authority any service which is not reckonable as contributing service and which is not reckonable solely for the purpose of determining whether any benefit is payable under these regulations.[1]

(4) Notwithstanding the provisions of the last preceding paragraph, any period of non-contributing service in respect of which the officer has made or is in the course of making payments in accordance with the provisions of the fourth schedule shall be reckonable as contributing service.

(5) Where under this regulation there becomes reckonable as contributing service in relation to an officer any service in respect of which he was in course of making but had not completed making additional contributory payments under the Act of 1937, the right to receive the balance of the debt shall, notwithstanding anything in the regulations for the time being in force under proviso (ii) to section 8 (2) (*b*) of the Act of 1937, be transferred to the Minister, and the payments due in respect thereof shall be deemed to be payable under the fourth schedule to these regulations.

Special Provisions Relating to Service under the Act of 1909, *the Act of* 1937 *or a Local Act Scheme.*

15.—(1) Where a person, being a contributory employee in the employment of any local authority, will, if he remains in their employment, be transferred under the Act, that authority may at any time before the date of transfer resolve that the whole or any part of his non-contributing service (if any) shall be reckonable as contributing service, and if that person is a female nurse, midwife or health visitor to whom section 16 (1) (*a*) of the Act of 1937 applies

[1] It must be appreciated that the meaning of *service* in these Regulations is as defined in Reg. 13. Consequently, in respect of transferred officers, only such service prior to transfer is reckonable at all as service for the purposes of these regulations as was so reckonable under and for the purposes of any of the superannuation schemes named in paragraph (3) of that Regulation. Hence, service in a mental hospital or in a mental deficiency institution otherwise than as a Class I officer or servant or as a Class II officer or servant established by resolution of the governing body under the 1909 and 1918 Acts, does not count for pension rights on transfer. Ex-voluntary hospital officers are subject to special treatment in respect of past service as to which see Regs. 13 (8), 24 and 25 and summary at the end of the last of the Regulations. Even here, however, no credit can be claimed for service not subject to a superannuation scheme except so far as " reasonable expectations " in accordance with Reg. 25 can be proved.

and who has not completed, and cannot before attaining the age of sixty years complete, forty years service, that authority may similarly resolve that a number of years not exceeding five shall be added to the number of years which that person has actually served in the aggregate.

(2) Where a person, being a contributory employee or local Act contributor in the employment of any local authority, will, if he remains in their employment, be transferred as aforesaid, and any local Act modifying the Act of 1937 or the local Act scheme confers a discretion on that local authority, in calculating any benefit to which that person might have become entitled on ceasing to be employed, to add a number of years to the number of years which that person has actually served in the aggregate, that authority may at any time before the date of transfer exercise that discretion in relation to him, notwithstanding that he has not become entitled to that benefit.

(3) Where a person, being an established officer or servant in the employment of a visiting committee or the managers of a certified institution, will, if he remains in their employment, be transferred as aforesaid, the visiting committee or managers may, at any time before the date of transfer, with the consent of the Minister, exercise in relation to him the discretion conferred on them by section 2 (3) of the Act of 1909, notwithstanding that he has not become entitled to a superannuation allowance under that Act.

(4) A resolution passed under paragraph (1) of this regulation or the exercise of a discretion pursuant to paragraph (2) or (3) in relation to any person shall cease to have effect if that person is not transferred as aforesaid.

(5) A person in relation to whom a resolution to add years has been passed under paragraph (1) of this regulation or in relation to whom a discretion has been exercised pursuant to paragraph (2) or (3) shall, on becoming an officer on being trasferred as aforesaid, be entitled to reckon as contributing service in relation to his employment as such officer any number of years in respect of which the resolution was passed or the discretion was exercised.

For Reg. 15 (6) (7) *vide* p. 452.

Method of Calculating Service, Contributing Service and Non-contributing Service

16. For the purpose of making any calculation under these regulations in respect of an officer's service :—

(*a*) all periods of his service shall be aggregated ;

(*b*) all periods of his contributing service shall be aggregated ;

(*c*) his non-contributing service shall be calculated by deducting all completed years of his contributing service from his

service, and if his non-contributing service as so calculated includes a fraction of a year, that fraction shall, if it exceeds six months, be treated as a year, and in any other case be disregarded :

Provided that for the purpose of calculating the amount of any benefit payable to or in respect of an officer employed whole-time in a single employment who had formerly been employed in a part-time capacity otherwise than as a practitioner, the period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

Meaning of Average Remuneration

17. For the purposes of these regulations, the average remuneration of a person in relation to his employment as an officer by any employing authority means the annual average of the remuneration of his employment by that authority, and of any other employment, war service or national service reckonable by him as contributing service or non-contributing service in relation to that employment, for an aggregate period of three years during which he was so employed or engaged in war service or national service as aforesaid, ending on the date on which he ceased to hold his employment as such officer, or, if he died while still such officer and before attaining pensionable age, the date of his death, or, if he attained pensionable age before ceasing to be such officer or dying, the date on which he attained pensionable age :

Provided that—

(*a*) in the case of an officer transferred under the Act who had attained pensionable age before being so transferred, the calculation shall be made by reference to an aggregate period of three years ending on the appointed day ;

(*b*) in the case of an officer who, on a reduction in his remuneration, made contributions in accordance with regulation 4 (2), the remuneration on which he so made contributions in respect of the period during which his remuneration was reduced shall be deemed to have been the remuneration of his employment during that period ;

(*c*) in the case of an officer who made contributions in accordance with regulation 4 (3), the remuneration on which he so made contributions shall be deemed to have been the remuneration of his employment ;

(*d*) in the case of an officer whose remuneration was reduced or suspended by reason of his absence from duty owing to ill-

ness or injury, no account shall be taken of the reduction or suspension ;

(*e*) the remuneration of an officer in respect of any period of war service which is reckonable as service under regulation 13 (4) shall be deemed to have been the remuneration of the employment he left to engage in war service ;

(*f*) the remuneration of an officer in respect of any period of national service which is reckonable as service under paragraph (5) or (7) of regulation 13 shall be deemed to have been the remuneration of the employment he left to undertake that service ;

(*g*) if the officer, having been previously engaged in whole-time employment, is engaged in the part-time employment of each of two or more authorities, the remuneration of the whole-time employment shall be treated as attributable to those part-time employments and shall be apportioned between them ; and

(*h*) the average remuneration of an officer whose contributing service and non-contributing service is less in the aggregate than three years shall be deemed to be the annual average of his remuneration for such shorter period.

Return of Contributions

18.—(1) Every officer who on ceasing to be employed is not entitled to a pension or retiring or injury allowance or a short service gratuity, and any person who, though not ceasing to be employed, ceases to be an officer to whom these regulations apply, shall be entitled to receive from the Minister a return of his contributions, together with compound interest thereon :

Provided that—

(*a*) if an officer ceases to be employed by reason of his resignation or dismissal in consequence of an offence of a fraudulent character or of misconduct committed by him in connexion with the performance of the duties of his employment or otherwise in relation to his employment, there shall be no right to a return of contributions, but the Minister may, if he thinks fit, return to him or pay to his spouse or any dependant a sum equal to the whole or a part of his contributions, with interest ; and

(*b*) if any of the contributions were made under an enactment or scheme in the benefits of which the person participated before becoming an officer, and the officer has ceased to be employed in circumstances in which under that enactment or scheme those contributions would have been returnable

Amended, *vide* p. 452.

or might have been returned without interest, no interest shall be calculated on the contributions so made up to the date on which he became an officer.

(2) If—

(*a*) an officer dies, and no death gratuity is payable in respect of his death ; or

(*b*) a retired officer dies after having become entitled to an injury allowance, no death gratuity being payable in respect of his death, and there has not been paid or become payable on account of that allowance an aggregate amount equal to the amount of his contributions, together with compound interest thereon ;

Deleted, *vide* p. 453.

his legal personal representatives shall be entitled to receive from the Minister, *in the case mentioned in sub-paragraph* (*a*) *of this paragraph*, the amount of his contributions, together with compound interest thereon, * and, in the case mentioned in sub-paragraph (*b*), the amount of his contributions, together with compound interest thereon, less the aggregate amount so paid or payable as aforesaid :

Words in italics deleted, *vide* p. 453.

Provided that where in the case mentioned in sub-paragraph (*b*) the person had surrendered a part of the injury allowance, there shall be deemed for the purpose of this paragraph to have been paid or become payable on account thereof the aggregate amount which would have been paid or become payable but for the surrender.

Deleted from * *vide* p. 453.

(3) References in these regulations to an officer's contributions include references to :—

(*a*) any sums contributed by him under regulation 4 ;

(*b*) any sums paid by him by way of additional contributory payments ;

(*c*) any sums contributed or treated as having been contributed by him under the Act of 1909,[1] the Teachers Acts, the Act of 1922, the Act of 1937 or a local Act scheme ;

(*d*) any sums contributed by him under the Insurance Committee Officers' Superannuation Scheme or any other scheme approved by the Minister under regulation 13 (3) (*d*) (v) ; and

(*e*) any sums paid by him under a scheme made under section 28 (3) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936,[2] or the corresponding provisions of any Act repealed by that Act ;

but only in so far as any such sums have not been returned to and

[1] This regulation does not apparently confer any right to a return of contributions on an officer who has opted to remain subject to the conditions of the 1909 Act and who subsequently resigns voluntarily, since the right to return of contributions remains, in such circumstances, for determination under that Act.

[2] 26 Geo. 5 & 1 Edw. 8, c. 33.

retained by him, and are attributable to service which might have been reckoned under these regulations in relation to the employment he has ceased to hold or in which he has died.

For Reg. 18A *vide* p. 453.

Calculation of Interest on Contributions

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

Provided that—

(*a*) if any of the contributions were made under an enactment or scheme in the benefits of which the officer participated before becoming an officer, and that enactment or scheme made provision for the calculation of interest on contributions returned thereunder in a different manner from that provided by this regulation, interest on the contributions so made shall be calculated in manner provided by that enactment or scheme up to the date on which he became an officer, or, if he received a return of those contributions before that date, up to the date of such return ; and

(*b*) where an officer, having received a return of contributions or after ceasing to hold some former employment, has paid or repaid those contributions to the employing authority in accordance with proviso (*a*) to regulation 13 (2) or proviso (*b*) to regulation 13 (5), then—

(i) if those contributions were so returned without interest, the interest thereon shall not begin to run until the first day of the half-year following that in which those contributions were so paid or repaid as aforesaid ; and

(ii) if those contributions were so returned with interest, no interest shall be calculated thereon between the date on which they were returned and the first day of the half-year following that in which they were so paid or repaid as aforesaid.

Conditions Attaching to Grant of Pension or Injury Allowance

20.—(1) Where a person who has not attained the age of sixty years is in receipt of a pension under regulation 5 (*a*) (i) or an injury allowance, and the Minister is satisfied that he has become capable

of resuming the duties of his employment, he may require him to enter the employment of any employing authority in any capacity for which his previous experience may render him suitable, and if he declines to enter that employment, or declines or neglects satisfactorily to discharge the duties thereof, he shall not be entitled to any payment on account of the pension or allowance in respect of any period before he attains the age of sixty years :

Provided that the Minister shall not require a person to whom this paragraph applies to enter the employment of an employing authority if that person has entered or enters any other employment approved by the Minister, so long as he continues in employment so approved.

(2) The Minister may require a person to whom paragraph (1) of this regulation applies to submit himself to a medical examination by a registered medical practitioner selected by the Minister, and, if he does so, he shall also offer the person an opportunity of submitting a report from the person's own medical adviser as a result of an examination made by him, and the Minister shall take that report into consideration, together with the report of the medical practitioner selected by the Minister.

(3) If a person fails to comply with a requirement made under the last preceding paragraph he shall be treated as if the Minister were satisfied that he had become capable of resuming the duties of his employment.

(4) Where the Minister is satisfied that a person to whom paragraph (1) of this regulation applies is capable of resuming the duties of his employment but the person is unwilling to accept employment under an employing authority which has been offered to him, and the Minister has not approved any other employment he may have entered or proposes to enter, the Minister, before requiring him to enter the employment which has been offered to him or any other employment, shall refer the matter to a referee or board of referees appointed for the purpose by the Minister of Labour and National Service, and shall consider the advice they tender, after having interviewed the person and afforded him an opportunity of stating his case, as to whether, regard being had to his previous experience and all the circumstances of the case, it being assumed that he is capable of resuming the duties of his employment, it would be reasonable to require him to enter the employment which has been offered to him or any other employment specified by the referee or board of referees.

For Reg. 20 (5), *vide* p. 454.

Pensioner Accepting Further Employment

21.—(1) Where a person entitled to a pension or injury allowance

enters employment, whether pursuant to the provisions of the last preceding regulation or otherwise, the remuneration of which is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater amount of the pension or allowance than would make up the amount, if any, by which the annual emoluments of that employment fall short of the annual remuneration or average remuneration of the employment in relation to which he became entitled to the pension or allowance, whichever is the greater.

(2) Where such a person as aforesaid (other than a person to whom regulation 20 applies) proposes to accept further employment the remuneration of which will be payable out of public funds, he shall inform his prospective employer that he is so entitled, and, if he enters that employment, shall forthwith give notice in writing to the Minister that he is so employed.

Option to Transferred Officers to Retain Rights corresponding with those enjoyed Prior to Transfer

22.—(1) Where a person, on being transferred under the Act, becomes an officer in the employment of any employing authority, having immediately before becoming such officer been subject to the provisions of—

(*a*) the Superannuation Acts ;
(*b*) the Act of 1909 ;
(*c*) the Act of 1937 ;
(*d*) a local Act scheme ;
(*e*) the Insurance Committee Officers' Superannuation Scheme ; or
(*f*) any scheme approved by the Minister under regulation 13 (3) (*d*) (v) ;

then, if he notifies the employing authority in writing within three months after becoming such officer that he does not wish to avail himself of the benefits provided by these regulations, the provisions of this part shall apply to and in respect of him, as if, in relation to his employment as such officer, they required him to make the like contributions (if any) as he would have been liable to make and conferred upon him rights corresponding with those which he would have enjoyed if he had remained subject to the enactment or scheme previously applicable in his case, and those provisions shall continue so to apply to and in respect of him so long as he is an officer of any employing authority without a break in employment of more than twelve months, and without his having during any break in employment become entitled to participate in super-

annuation benefits by virtue of employment otherwise than under an employing authority :

Provided that—

(*a*) where a person to whom this paragraph applies at any time ceases to be an officer of an employing authority in order to undertake national service, but again becomes an officer of an employing authority within six months after the termination of that service, the period of that service shall not be treated as such a break in employment as aforesaid ;

(*b*) if a person who has exercised the option conferred by the foregoing provision to retain rights corresponding with those enjoyed under the Act of 1909 or the Superannuation Acts was immediately before being transferred under the Act an established officer or servant of the first class under the Act of 1909 or a person to whom the Superannuation (Prison Officers) Act, 1919, applied, and is at any time employed otherwise than for the purposes of a hospital or part of a hospital used for the treatment of mental patients or an institution or part of an institution used for the treatment of defectives, the option shall cease to have effect ; and

(*c*) if a person (other than a mental health officer) who has exercised the said option to retain rights corresponding with those enjoyed under any enactment or scheme at any time becomes a mental health officer, he may, if he notifies the employing authority in writing within one month after becoming such an officer that he so desires, avail himself of the benefits provided by these regulations in lieu of the rights to which he was previously entitled, and, if he does so, the option shall cease to have effect.

(2) The provisions of the preceding paragraph shall apply to an officer who, having been subject to the Act of 1937 or a local Act scheme, had before being transferred under the Act attained the age of compulsory retirement applicable in his case, *or who attains pensionable age on, or within three months after, being so transferred*, as if on becoming an officer he had exercised the option thereby conferred to retain rights corresponding with those enjoyed under the Act of 1937 or the local Act scheme, as the case may be.

Words in italics deleted, *vide* p. 454.

(3) Where a person who, pursuant to the preceding provisions of this regulation is required to make the like contributions as he would have been liable to make and becomes entitled to enjoy rights corresponding with those he would have enjoyed if he had remained subject to the enactment or scheme previously applicable in his

case, was immediately before being transferred under the Act a contributor to a thrift fund, a widows' and orphans' pensions fund or any other fund established under express statutory authority for the purpose of providing benefits which are supplementary to or in augmentation of the superannuation benefits provided under the said enactment or scheme, he shall make additional contributions under these regulations of the like amount as those he would have been liable to make to the said fund if he had remained subject to the said enactment or scheme, and shall in consideration thereof be entitled to the like rights under these regulations as he would have enjoyed had those contributions been contributions to the said fund.

Benefits of Transferred Officers who do not Exercise Option to Retain Previous Rights

23.—(1) The provisions of this regulation shall apply in the case of any officer to whom the last preceding regulation applies (other than an officer who was subject immediately before becoming an officer to an enactment or scheme which included a title to a death gratuity among its benefits[1]), and who does not exercise the option thereby conferred, or in whose case any option exercised thereunder has ceased to have effect.

(2) The amount of any retiring allowance payable to any such officer shall be increased by one-half per cent. in respect of each year of contributing service, and one-quarter per cent. in respect of each year of non-contributing service, reckonable, in the case of an officer who did not exercise the said option, in respect of any period prior to his becoming an officer, or, in the case of an officer who exercised the said option but in whose case the option has ceased to have effect, in respect of any period prior to the date on which the option ceased to have effect :

Provided that where the whole or any part of the retiring allowance payable to the officer in respect of any such period as is mentioned in this paragraph falls to be calculated, in the case of any year of contributing service by reference to one-eightieth of the officer's average remuneration, and in the case of any year of non-contributing service by reference to one one-hundred-and-sixtieth of such remuneration, one and one-half per cent. shall be substituted for one-half per cent. in respect of each such year of contributing service, and three-quarters per cent. shall be substituted for one-

[1] The 1909 Act does not include "a title to a death gratuity among its benefits" since payments of that nature are, under that Act, discretionary.

quarter per cent. in respect of each such year of non-contributing service.

Persons Subject to Non-statutory Superannuation Schemes and Arrangements

24.—(1) Where any person (not being a person to whom regulation 22 applies), on being transferred under the Act or in consequence of the acquisition by the Minister under section 58 of the Act of a hospital at or for the purposes of which he was employed at the date of acquisition, becomes an officer of an employing authority, then, if on the nineteenth day of March, 1946 (or such later date as the Minister may determine in the case of a person who had been employed at or for the purposes of a hospital so acquired by the Minister as aforesaid) and immediately before becoming such officer he was participating in the superannuation scheme operated under the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers, and if the officer so requests the employing authority in writing within three months after becoming such officer, and if the body administering the scheme consents, and enters into the necessary arrangements with the Minister for the purpose, the Minister shall, so long as the person remains without a break of more than one month at any one time an officer in the employment of any employing authority, pay the contributions authorised or required by the scheme to be paid by the employer, other than contributions in respect of any policy of insurance taken out under the scheme between the eighteenth day of March, 1946 and the appointed day (or in the case of a person who had been employed at or for the purposes of a hospital so acquired by the Minister as aforesaid between such later date as the Minister may determine and the date of acquisition), and in that event the officer shall not as such officer be subject to any provisions of these regulations except those contained in this and the next succeeding regulation, and the Minister may, if he thinks fit, with the consent of the body administering the scheme, and subject to such arrangements as he may make with that body, also pay the contributions authorised or required by the scheme to be paid by the employer in respect of any policy of insurance taken out under the scheme after the eighteenth day of March, 1946, or such later date as aforesaid, as the case may require.

(2) Where any such person as is mentioned in the last preceding paragraph, immediately before becoming an officer of an employing authority, was participating in any superannuation scheme of a similar character to the schemes therein mentioned, or was partici-

pating or had reasonable expectations of participating in any other scheme or arrangements for the provision of superannuation benefits, then, if the officer so requests the employing authority in writing within three months after becoming such officer, the Minister shall consider all the circumstances of the case, including any change which may have occurred on the person becoming an officer in the emoluments previously enjoyed by him, and if he is satisfied that undue hardship would result if the provisions of this paragraph were not applied to the officer, the Minister shall, if any relevant scheme continues to be administered by a body, with the consent of and subject to such arrangements as he may make with that body, pay the contributions authorised or required by that scheme to be paid by the employer, and in any other case the Minister may carry out the relevant scheme or arrangements, and in that event the officer shall not as such officer be subject to any provisions of these regulations except those contained in this and the next succeeding regulation :

Amended, *vide* p. 454.

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

(3) Subject to the provisions of the two preceding paragraphs, where a person becomes an officer of an employing authority, having immediately before becoming such officer been participating in either of the superannuation schemes mentioned in paragraph (1) of this regulation or any other scheme approved by the Minister for the purposes of this paragraph, then, if the officer so requests the employing authority in writing within three months after becoming such officer, the Minister may, with the consent of the body administering the scheme, and subject to such arrangements as he may make with that body, pay the contributions authorised or required by the scheme to be paid by the employer, and in that event the officer shall not as such officer be subject to any provisions of these regulations except those contained in this regulation :

Amended, *vide* p. 454.

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

(4) Where contributions are paid by the Minister under the foregoing provisions of this regulation in respect of any person, the employing authority shall deduct from that person's remuneration the amount of the contributions required by the scheme to be paid by the employee, and shall pay the same to the Minister, together with the like contributions which they would have paid in respect of that person under regulation 4 but for the provisions of this regulation.

Supplementary Payments in the Case of Special Classes of Officers

(*As to the application of this regulation to expectations apparently first clarified in minutes of governing bodies of transferred voluntary hospitals between* 19*th March*, 1946 *and the appointed day and the circumstances in which the fixing of expectations in that interim period might be considered justifiable, see Ministry of Health Circular to voluntary hospitals No.* 11/48.)

25.—(1) The provisions of this regulation shall apply in the case of any person who, on being transferred under the Act, or in consequence of the acquisition by the Minister under section 58 of the Act of a hospital at or for the purposes of which he was employed at the date of acquisition, becomes an officer of an employing authority, and who had been engaged, for not less than ten years prior to his becoming an officer, in employment solely or mainly at or for the purposes of any hospital which has been transferred to or acquired by the Minister under the Act:

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

(2) If any person to whom this regulation applies (not being a person to whom paragraph (1), (2) or (3) of the last preceding regulation applies), immediately before becoming an officer, was not participating in superannuation benefits, or was so participating otherwise than under the Act of 1909, the Act of 1937 or any local Act scheme, and if on the nineteenth day of March, 1946 (or such later date as the Minister may determine in the case of a person who had been employed at or for the purposes of a hospital so acquired by the Minister as aforesaid), and immediately before becoming an officer, he had reasonable expectations that on his retirement from his employment or on his death superannuation benefits would become payable to or in respect of him, then, unless those benefits were secured to him as such participant as aforesaid, and on becoming an officer he received some benefit on account thereof, if he remains without a break of more than twelve months at any one time in employment as an officer of any employing authority or as an officer to whom part III or IV of these regulations applies, the Minister, with the approval of the Treasury, on his ceasing to be employed or on his death, may make such payments, supplementary to any superannuation benefits which may become payable to or in respect of him, as the Minister considers equitable, having regard to the fact that in the calculation of those super-

annuation benefits account is not taken of any such employment before he became an officer as is mentioned in paragraph (1) of this regulation.

(3) If any person to whom this regulation applies, being also a person to whom paragraph (1), (2) or (3) of the last preceding regulation applies, had, on the nineteenth day of March, 1946 (or such later date as the Minister may determine in the case of a person who had been employed at or for the purposes of a hospital so acquired by the Minister as aforesaid), and immediately before becoming subject to that paragraph, reasonable expectations that on his retirement from his employment or on his death superannuation benefits, in addition to those secured to him as a participant in any such scheme as is mentioned in that paragraph, would become payable to or in respect of him, then, if he remains without a break of more than twelve months at any one time in employment as an officer of any employing authority, the Minister, on his ceasing to be employed or on his death, may make such payments, supplementary to any superannuation benefits which may become payable to or in respect of him, as the Treasury may approve, in respect of such expectations as aforesaid.

(4) For the purposes of the last two preceding paragraphs, a person shall not be treated as having had a break in employment if he leaves such employment as an officer as is therein mentioned in order to undertake war service or national service, and returns to any such employment as aforesaid within six months after the termination of that service.

(5) An officer shall not be entitled to have his case considered under this regulation unless within three months after the date on which he becomes an officer, or such longer period as the Minister may in any particular case allow, he furnishes the employing authority with a written application for the purpose, and any officer so applying shall furnish the employing authority or the Minister with such relevant information as may be required.

Benefits in case of Late Entrants

26. Where a person who becomes an officer of an employing authority after attaining the age of thirty-five years is not entitled to reckon any previous employment as service, the Minister may, if satisfied that there are exceptional reasons for so doing, within six months after his becoming an officer, direct that the length of his service as such officer shall for the purposes of determining whether he is entitled to any benefit under these regulations and of calculating any such benefit be treated as eight-fifths of the actual length thereof:

Provided that—

(*a*) no account shall be taken of the service of an officer in respect of whom a direction is given before attaining the age of forty years ; and

(*b*) notwithstanding the direction, this regulation shall not have effect so as to prevent or reduce any benefit under these regulations which might have been granted had the direction not been given.

Holders of Joint Appointments

27. Where one of the holders of a joint appointment under an employing authority ceases to hold his appointment, and the appointment of the other is thereby determined, then that other, if he is an officer to whom this part applies, and has either attained the age of fifty years and completed ten years service, or has completed twenty years service, shall be entitled to receive a pension and retiring allowance, calculated in accordance with the provisions of regulation 6 :

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

Female Nurses and Physiotherapists, Midwives and Health Visitors

28. These regulations, in their application to female nurses (other than mental health officers [1]) and physiotherapists, midwives and health visitors, shall have effect subject to the modification that in regulations 5 and 20 (1) fifty-five years shall be substituted for sixty years.

Mental Health Officers

Amended, *vide* p. 454.

29. These regulations, in their application to any mental health officer who has attained the age of fifty-five years and been employed for an aggregate period of at least twenty years as such an officer or as a person to whom the Act of 1909 applied as an established officer or servant of the first class or as a person to whom the Superannuation (Prison Officers) Act, 1919,[2] applied, shall have effect subject to the following modifications :—

(*a*) in regulations 5 and 20 (1), fifty-five years shall be substituted for sixty years ; and

[1] This Regulation is to apply to officers of the classes named even though they are mental health officers as an alternative, at the officers' option, to the provisions of Reg. 29. The words in brackets have accordingly been deleted (*vide*, p. 454).

[2] 9 & 10 Geo. 5, c. 67.

(*b*) for the purposes of regulations 6, 9 (2) and 10, the proviso to regulation 11 (1) and regulations 30 (3) and 30 (4), account shall be taken as if it were two years of every year in excess of twenty years of contributing service as a mental health officer or of contributing service so reckonable by such an officer by virtue of such employment as aforesaid.

For Reg. 29 (2) (3), *vide* p. 454.

Modification of Benefits and Obligations under these Regulations in connexion with the National Insurance Act, 1946

(*The general effect of this regulation is to provide* (i) *that every direct entrant to the superannuation scheme established by these regulations shall pay a reduced contribution and, on reaching the age for receipt of a pension under the National Insurance Act,* 1946, *have his pension under these regulations reduced by the amount, in no case exceeding* £67 15s. *per annum, fixed in accordance with the relevant tables on the basis of his age at entry.* (ii) *that all transferred officers who have not already been given an option—as under the National Insurance* (*Modification of Local Government Schemes*) *Regulations,* 1947— *shall have the option of contributing in full and receiving full benefits under these regulations or of paying the reduced contributions under Reg.* 30 *and receiving a reduced pension from the date of becoming entitled to a pension under the National Insurance Act,* 1946, *the reduced pension being calculated as in the former case.* (iii) *that persons who had already before the appointed day had opportunity of exercising a similar option as, for example, under the National Insurance* (*Modification of Local Government Schemes*) *Regulations,* 1947, *should on transfer to the superannuation scheme under these Regulations be bound by their previous choice.*)

30.—(1) Subject to regulation 22 and paragraphs (4) to (9) of this regulation, the provisions of these regulations shall, as from the appointed day for the purposes of section 1 of the National Insurance Act, 1946,[1] apply in relation to every officer of an employing authority, subject to the modifications contained in paragraph (2) of this regulation, and in relation to every person receipt of a pension under these regulations, subject to the modifications contained in paragraph (3).

(2) The amount of the contributions to be paid by an officer under regulation 4 shall be reduced at the rate of three pounds and eight pence per annum in the case of a man or a female nurse (including mental health officer) or physiotherapist, midwife or health visitor, and at the rate of three pounds and five shillings

[1] 9 & 10 Geo. 6, c. 67.

per annum in the case of a woman, other than a female nurse (including mental health officer) or physiotherapist, midwife or health visitor, and the amount of the contributions to be paid in respect of the officer by the employing authority shall be reduced at the like rate :

Provided that—

(*a*) in the case of a mental health officer who has completed twenty years contributing service attributable to employment as such an officer or as a person to whom the Act of 1909 applied as an established officer or servant of the first class or as a person to whom the Superannuation (Prison Officers) Act, 1919, applied, the amount of the reductions shall be doubled ; and

For substitute proviso, *vide* p. 455.

(*b*) in the case of an officer who is a self-employed person within the meaning of the National Insurance Act, 1946, the amount by which his contributions are to be reduced shall be doubled, and the employing authority's contributions shall not be reduced.

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

(*a*) if he became an officer of an employing authority within twelve months after leaving employment in relation to which he was subject to the Act of 1937, a local Act scheme or the Act of 1909, as modified by regulations made under section 69 (4) of the National Insurance Act, 1946, or if he left that employment in order to undertake war service, within six months after the termination of that service, and remained an officer of an employing authority until becoming entitled to a pension, without any break of more than twelve months during no part of which he was a contributory employee, local Act contributor, established civil servant or such a person in contributory service under the Teachers Acts as is mentioned in regulation 13 (3) (*c*), and if by virtue of the said regulations any superannuation allowance to which he might have become entitled under the enactment or scheme to which he was subject as aforesaid would have been reduced by reference to his age at the date on which the said regulations became applicable in relation to him—

(i) by the annual sum shown in the appropriate column of the relative Table set out in the eighth schedule in

relation to an age which corresponds with his age at the date on which the said regulations became applicable in relation to him, for each year of contributing service on and after that date or in respect of which he paid reduced contributions in pursuance of a scheme (hereinafter called a "pre-existing scheme") made under section 28 (3) of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, or the corresponding provisions of any Act repealed by that Act; and

(ii) by one-half of the said annual sum for each year of non-contributing service on and after the date on which the said regulations became applicable in relation to him;

(*b*) if, not being such a person as aforesaid, he became an officer on being transferred under the Act or in consequence of the acquisition by the Minister under section 58 of the Act of a hospital at or for the purposes of which he was employed at the date of acquisition, and remained an officer without any break of more than twelve months during no part of which he was a contributory employee, a local Act contributor, established civil servant or such a person in contributory service under the Teachers Acts as aforesaid— Amended, *vide* p. 455.

(i) by the annual sum shown in the appropriate column of the relative table set out in the eighth schedule in relation to an age which corresponds with his age at the date on which he became an officer, for each year of contributing service on and after the appointed day for the purposes of section 1 of the National Insurance Act, 1946, or on and after the date on which he became an officer, whichever is the later; and

(ii) by one-half of the said annual sum for each year of non-contributing service on and after the said date; and

(*c*) in any other case, by the sum of one pound and fourteen shillings per annum for each year of contributing service on and after the appointed day aforesaid, and by the sum of seventeen shillings for each year of non-contributing service on and after that day:

Provided that—

(i) for the purposes of items (i) and (ii) of sub-paragraph (*a*) of this paragraph, any period of service as an officer of an employing authority prior to the

appointed day for the purposes of the National Insurance Act, 1946, shall be disregarded ;

(ii) a person to whom sub-paragraph (*a*) or (*b*) of this paragraph applies shall not be treated as having had such a break as is therein mentioned if at any time he ceased to be an officer of an employing authority, a contributory employee, a local Act contributor, an established civil servant or such a person in contributory service under the Teachers Acts as aforesaid in order to undertake war service or, being an officer of an employing authority, in order to undertake national service, but re-entered employment in one of those capacities within six months after the termination of that service ;

(iii) if a person, having paid reduced contributions for any period in pursuance of a pre-existing scheme has, in pursuance of that scheme, paid a sum representing the difference between those reduced contributions and the sum he would have contributed had his contributions not been reduced, his service during that period shall not for the purposes of sub-paragraph (*a*) of this paragraph be treated as service in respect of which reduced contributions were paid ; and

(iv) the total amount of the reduction shall in no case exceed sixty-seven pounds and fifteen shillings per annum.

(4) In the case of an officer who would, if he ceased to be employed, be entitled to a pension, and who has completed forty years contributing service, or forty years contributing service and non-contributing service, the non-contributing service being reckoned at half its actual length, any further service shall be disregarded for the purposes of paragraph (3) of this regulation.

(5) Paragraph (1) of this regulation shall not apply in the case of any person who in pursuance of paragraph (*a*) of subsection (3) of section 71 of the National Insurance Act, 1946, is deemed to attain pensionable age on the expiration of ten years from the appointed day for the purposes of that section.

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

(7) Where an officer in the part-time employment of one or more

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

(8) Where a person becomes an officer of an employing authority within twelve months after leaving employment in relation to which he was an established civil servant, such a person in contributory service under the Teachers Acts as aforesaid, a contributory employee, a local Act contributor or a person subject to the Act of 1909, or if he left that employment in order to undertake war service within six months after the termination of that service, and, having in that employment been insured or deemed to have been insured under the National Health Insurance Acts, 1936–1938, as amended by the National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941 [1] (hereinafter called the National Health Insurance Acts), or the Widows', Orphans' and Old Age Contributory Pensions Act, 1936, or an insured person for the purposes of the National Insurance Act, 1946, and also been excepted from the provisions of any regulations made under section 69 (4) of the National Insurance Act, 1946, modifying the Superannuation Acts, the Teachers Acts, the Act of 1937, a local Act scheme or the Act of 1909, paragraph (1) of this regulation shall not apply in relation to him, so long as he is an officer of an employing authority without any break of more than twelve months during no part of which he was an established civil servant, such a person in contributory service under the Teachers Acts as aforesaid, a contributory employee or local Act contributor, unless in the employment he has left he was an established civil servant, and he gives notice in writing to the employing authority within three months after the day on which he becomes an officer or the appointed day for the purposes of section 1 of the National Insurance Act, 1946, whichever day is the later, that he wishes paragraph (1) of this regulation to apply in relation to him, in which event that paragraph shall apply in relation to him as from the first day of the month or, in the case of a person in receipt of weekly remuneration, the first day of the week, next following the month or week, as the case may be, in which the notice is given :

Provided that a person to whom this paragraph applies shall

[1] 4 & 5 Geo. 6, c. 39.

not be treated as having had such a break as aforesaid if at any time he ceases to be an officer of an employing authority, an established civil servant, such a person in contributory service under the Teachers Acts as aforesaid, a contributory employee or local Act contributor, in order to undertake war service or, being an officer of an employing authority, in order to undertake national service, but re-enters employment in one of those capacities within six months after the termination of that service.

(9) Where a person is an officer of an employing authority on the appointed day for the purposes of section 1 of the National Insurance Act, 1946, or where a person is on war service or national service on the said appointed day and becomes an officer of an employing authority within six months after the termination of that service, not being in either case a person who has elected that the provisions of any regulations made under section 69 (4) of the said Act modifying the Teachers Acts, the Act of 1937, any local Act scheme or the Act of 1909, should apply to him in relation to any previous employment in which he was subject to any such enactment or scheme, or has had an opportunity of so electing during a period which has expired, then, unless he gives notice in writing to the employing authority within three months after the said appointed day or the date of his becoming an officer, as the case may be, that he wishes paragraph (1) of this regulation to apply in his case, that paragraph shall not apply in relation to him, so long as he is an officer of an employing authority without any break of more than twelve months during no part of which he was an established civil servant, such a person in contributory service under the Teachers Acts as aforesaid, a contributory employee or local Act contributor, and in the event of his giving such notice as aforesaid that paragraph shall apply in relation to him as from the first day of the month or, in the case of a person in receipt of weekly remuneration, the first day of the week, next following the month or week, as the case may be, in which the notice is given :

Provided that a person to whom this paragraph applies shall not be treated as having had such a break as aforesaid if at any time he ceases to be an officer of an employing authority, an established civil servant, such a person in contributory service under the Teachers Acts as aforesaid, a contributory employee or local Act contributor, in order to undertake war service or, being an officer of an employing authority, in order to undertake national service, but re-enters employment in one of those capacities within six months after the termination of that service.

(10) If during any period an officer pays no contributions under these regulations by reason of the fact that the amount of the

reduction in his contributions provided for by this regulation equals or exceeds the amount of his contributions, he shall nevertheless be deemed for the purposes of regulation 14 (1) (*a*) to have made the contributions required by these regulations in respect of that period.

Avoidance of Duplicate Benefits

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

Benefits not Assignable

32. A pension or other benefit to which an officer, or the spouse or dependant of an officer, becomes entitled under these regulations shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable or chargeable with his debts or other liabilities.

Forfeiture of Rights

33. An officer who is dismissed, resigns or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character or of grave misconduct committed by him in connexion with the performance of the duties of his employment or otherwise in relation to his employment shall, if the Minister so directs, forfeit all claim in respect of his previous service to any superannuation benefits, whether provided under these regulations or under any enactment or scheme.

For Regs. 33A and 33B, *vide* p. 455.

Application to Officers in Institutions under Management of Board of Control

34. These regulations shall apply to a person employed on the staff of an institution vested in the Minister under the Act and designated by him for defectives of violent or dangerous propensities as if in that employment he were an officer of the Board of Control and the Board were an employing authority, and in the case of a person transferred under the Act as if he had left employment as an established civil servant and entered the employment of the

Amended, *vide* p. 456.

Board, and the Superannuation Acts shall cease to apply or shall not apply to any such person.

Application to Medical Inspectors of Aliens

35. As from the appointed day, these regulations shall also apply to any medical inspector of aliens appointed under the Aliens Order, 1920,[1] or under that Order as at any time amended or under any Order replacing that Order, who receives his remuneration in that appointment from a local authority, as if he were an officer of that authority and that authority were an employing authority, and as if any employment in any such appointment before the appointed day by a person becoming an officer by virtue of holding such an appointment on the appointed day or becoming the holder thereof after the appointed day but within twelve months after having ceased to hold such an appointment before the appointed day were service for the purposes of these regulations.

Application to Other Officers Engaged in Health Services

36. If the Minister so directs, these regulations shall also apply, with any modifications or adaptations which the Minister considers necessary or desirable, to any other person who would be an officer if he were in the employment of an employing authority and who is wholly or mainly engaged in health services, whether provided under the Act or otherwise, but not provided by a local health authority or other local authority, as if the person's employer were an employing authority, and the Superannuation Acts, if otherwise applicable, shall not apply or shall cease to apply to any person in respect of whom a direction is given.

Accounts and Actuarial Investigations

37.—(1) The Minister shall keep an account in such form and prepared in such manner as the Treasury may approve of all revenue received and expenditure incurred by the Minister under these regulations, and at the expiration of seven years after the appointed day, and at the expiration of every subsequent period of seven years, there shall be an actuarial investigation of the assets and liabilities of the Minister in respect of the benefits provided by the Minister under these regulations to determine what adjustments (if any) are needed to maintain a balance between the said assets and liabilities.

(2) There shall be included in the said account such particulars as may be necessary in order that the said account shall also show

[1] S. R. & O. 1920 (No. 448), I, p. 138.

the revenue that would be received and the expenditure that would be incurred if, whenever any person transferred to or from employment subject to these regulations from or to employment as an established civil servant or as a person in contributory service under the Teachers Acts in circumstances in which a transfer value would have been payable under these regulations to or by the Minister had the person ceased to be or become a contributory employee or local Act contributor, a transfer value were payable to or by the Minister of such amount as the Government Actuary shall indicate as being actuarially equivalent to the liability of which the Treasury, the Minister of Education, or the Minister, as the case may be, is relieved as a result of that transfer.

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

PART II

MEDICAL AND DENTAL PRACTITIONERS

Application of Regulations with Modifications

38.—(1) These regulations shall apply, subject to the provisions of this regulation, to every practitioner, as if he were an officer in the employment of the Executive Council. Amended, *vide* p. 456.

(2) Subject to the provisions of paragraph (5) of this regulation, these regulations, as so applied, shall have effect in relation to any practitioner, other than an assistant practitioner, subject to the modification that for the definition of remuneration in regulation 1 (3) there shall be substituted the following definition, namely—

' " remuneration " means all payments made to the practitioner in respect of general medical services or general dental services provided by him, and of pharmaceutical services provided by him, less such sum on account of practice expenses as may be appropriate in accordance with a formula laid down by the Minister for the purpose, and less the remuneration approved by the Minister of any assistant practitioner in his employment :

Provided that if the practitioner is a party with any other practitioner or practitioners to a partnership agreement, and particulars of the agreement are disclosed to the Executive Council, his remuneration shall be deemed to be such proportion of the total remuneration of such practitioners as the proportion of his share in the partnership profits bears to the total proportion of the shares of such practitioners in those profits ; '.

(3) Subject to the provisions of paragraph (5) of this regulation, Amended, *vide* p. 456.

these regulations, as so applied, shall have effect in relation to any practitioner, subject to the following modifications :—

(*a*) regulation 4 (2) shall not apply ;

(*b*) if the practitioner made contributions during any period in accordance with regulation 4 (3), the remuneration on which he so made contributions shall be deemed to have been his remuneration in respect of that period ;

(*c*) if during any period the remuneration of the practitioner was reduced or suspended by reason of his absence from his employment owing to illness or injury, he shall be deemed to have continued to receive remuneration in respect of that period at the same annual rate as that at which he was receiving remuneration immediately before the reduction or suspension ;

(*d*) a practitioner in whose case any period of national service is treated as service as a practitioner under these regulations shall be deemed to have continued to receive remuneration in respect of that period at the same annual rate as that at which he was receiving remuneration immediately before undertaking that service ;

(*e*) for regulation 6 there shall be substituted the following provision, namely :—

" 6.—(1) The pension to be paid to a practitioner shall be on the following scale, that is to say—

(*a*) in respect of each year of contributing service as a practitioner, one and one-half per cent. of his remuneration for that year ;

(*b*) in respect of each year of contributing service otherwise than as a practitioner, one-eightieth of his average remuneration at the date on which he last ceased to be employed in such other capacity ; and

(*c*) in respect of each year of non-contributing service, one one-hundred-and-sixtieth of his average remuneration at the date on which he last ceased to be employed in such other capacity :

Provided that—

(i) in the case of a practitioner whose contributing service as a practitioner exceeds forty years, and who has no service in any other capacity, the pension shall be calculated by reference to the last forty years of such contributing service ;

(ii) in the case of a practitioner whose service includes service in any other capacity, and whose contribut-

ing service, together with his non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the pension shall be an amount obtained by multiplying the amount of the pension which would have been payable apart from this proviso by forty, and dividing the product by the number of years of actual service, any non-contributing service being reckoned as aforesaid; and

Amended, *vide* p. 450.

(iii) in the case of a practitioner who is entitled to a pension under regulation 5 (*a*) (i), and whose service in any capacity is less than twenty years, any non-contributing service being reckoned at half its actual length, the pension shall be an amount obtained by multiplying the amount of the pension which would have been payable apart from this proviso by such number of years' service, not exceeding twenty, as he could have completed before attaining pensionable age, any non-contributing service being reckoned as aforesaid, and dividing the product by the number of years of actual service, any non-contributing service being reckoned as aforesaid.

(2) The retiring allowance to be paid to a practitioner shall be a sum equal to the aggregate of the following amounts, namely—

(*a*) in respect of each year of contributing service as a practitioner, four and one-half per cent. of his remuneration for that year;

(*b*) in respect of each year of contributing service otherwise than as a practitioner, three-eightieths of his average remuneration at the date on which he last ceased to be employed in such other capacity; and

(*c*) in respect of each year of non-contributing service, three one-hundred-and-sixtieths of his average remuneration at the date on which he last ceased to be employed in such other capacity:

Provided that—

(i) in the case of a married male practitioner in respect of whose service a widow's pension may become payable under these regulations, one and one-half per cent. shall be substituted for four and one-half per cent. in sub-paragraph (*a*) of this paragraph, one-eightieth shall be substituted for three-

eightieths in sub-paragraph (*b*) and one one-hundred-and-sixtieth shall be substituted for three one-hundred-and-sixtieths in sub-paragraph (*c*) ;

(ii) in the case of a practitioner who is[1] divorced or judicially separated from his wife, the wife's death or the divorce or separation having taken place on or after the date on which he first became subject to these regulations, whether by virtue of this part or part I, one and one-half per cent. shall be substituted for four and one-half per cent. in sub-paragraph (*a*) of this paragraph in relation to each year of contributing service as a practitioner before the date of his wife's death or the divorce or separation, as the case may be, one-eightieth shall be substituted for three-eightieths in sub-paragraph (*b*) in relation to each year of contributing service otherwise than as a practitioner before the said date, and one one-hundred-and-sixtieth shall be substituted for three one-hundred-and-sixtieths in relation to each year of non-contributing service before the said date ;

(iii) in the case of a practitioner whose contributing service as a practitioner exceeds forty years, and who has no service in any other capacity, the sum to be calculated under the foregoing provisions of this paragraph shall be calculated by reference to the last forty years contributing service ;

(iv) in the case of a practitioner whose service includes service in any other capacity, and whose contributing service, together with his non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the amount of the allowance shall be an amount obtained by multiplying the amount of the allowance which would have been payable apart from this proviso by forty, and dividing the product by the number of years of actual service, any non-contributing service being reckoned as aforesaid ; and

Amended, *vide* p. 451.

(v) in the case of a practitioner to whom no pension is payable, if the amount of the allowance, calculated as aforesaid, is less than the amount of his contri-

[1] A drafting slip has now been corrected by the insertion of the words " a widower or " at this point (*vide* p. 456).

butions, together with compound interest thereon, the allowance shall be increased by the amount of the deficiency." ;

(*f*) if a death gratuity becomes payable in respect of a practitioner, then, for the reference in regulation 10 to a sum to be calculated by reference to a fraction of a person's average remuneration in respect of each year of service, there shall be substituted a reference to a sum obtained by the addition of the following amounts, namely :—

(i) in respect of each year of contributing service as a practitioner, four and one-half per cent. of his remuneration for that year, or if a widow's pension is payable under these regulations in respect of his death, one and one-half per cent. thereof ;

(ii) in respect of each year of contributing service otherwise than as a practitioner, three-eightieths of his average remuneration at the date on which he last ceased to be employed otherwise than as a practitioner, or if a widow's pension is payable as aforesaid, one-eightieth thereof ; and

(iii) in respect of each year of non-contributing service, three one-hundred-and-sixtieths of his average remuneration at the said date, or if a widow's pension is payable as aforesaid, one one-hundred-and-sixtieth thereof :

Provided that—

(*i*) in the case of a practitioner whose contributing service as a practitioner exceeds forty years, and who has no service in any other capacity, the said sum shall be calculated by reference to the last forty years contributing service ; and

(*ii*) in the case of a practitioner whose service includes service in any other capacity, and whose contributing service, together with his non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the sum to be obtained shall be obtained by multiplying by forty the amount of the sum which would have been obtained apart from this proviso, and dividing the product by the number of years of actual service, any non-contributing service being reckoned as aforesaid ;

Amended, *vide* p. 451.

(*g*) where a practitioner has previously been an officer by virtue of part I, not having been a practitioner prior to becoming such officer, and his service otherwise than as a practitioner,

any non-contributing service being reckoned at half its actual length, does not exceed ten years, such service shall be treated for the purposes of these regulations as if it were contributing service as a practitioner, any non-contributing service being reckoned as aforesaid ;

(*h*) where a practitioner is simultaneously employed as an officer of an employing authority in some other capacity, these regulations shall apply in relation to him as if in such employment he were a practitioner, and as if the remuneration of that employment were his remuneration as such practitioner ;

(*i*) if a practitioner undertakes national service, and that service becomes reckonable as a period of service under these regulations by virtue of regulation 13 (9), that service shall be treated as if it were service as a practitioner ;

(*j*) paragraph (*c*) of regulation 16 shall not apply in respect of service as a practitioner, and if a practitioner's contributing service, after deducting all completed years of such service, includes a fraction of a year, that fraction shall, if it exceeds six months, be treated as a year, and in any other case be disregarded ;

For sub-paragraph (*jj*), *vide* p. 456.

(*k*) for the purposes of regulation 21 further employment as a practitioner between the ages of sixty-five and seventy years in the case of a person who became entitled to a pension as a practitioner on or after attaining the age of sixty-five years shall be disregarded ;

Deleted, *vide* p. 456.

(*l*) for the purposes of regulation 30 (3) (*b*), a practitioner on the list of an Executive Council on the appointed day shall be deemed to have become an officer on being transferred under the Act ; and

(*m*) where any person holding a contract or policy of insurance with any of the Life Assurance Companies becomes a practitioner on the appointed day, then, if he so requests the Executive Council in writing within three months after the appointed day, the Minister may agree that the practitioner shall not, so long as he continues to be a practitioner, become subject to any provisions of these regulations except this provision, and in that event the Minister shall, subject to such terms and conditions as the Minister may determine, pay to him as a contribution towards the maintenance of the contract or policy an amount equal to eight per cent. of his remuneration as a practitioner as defined in paragraph (2) of this regulation.

(4) These regulations, as so applied, shall have effect in relation

to any assistant practitioner subject to the following further modifications :—

(*a*) in the definition of remuneration in regulation 1 (3), in line 1, after the word ' means ' there shall be inserted the following words, namely " the whole or such part as the Minister may approve of ", in line 2 the word " including " shall be substituted for the words " and includes ", and in line 4, the words " but not including " shall be substituted for the words " but does not include " ; and

(*b*) the practitioner shall be deemed to be the employing authority for the purposes of regulation 4, except paragraph (7) thereof, but shall remit to the Executive Council any contributions payable under that regulation.

(5) The modifications contained in paragraph (2) and in sub-paragraphs (*h*), (*k*) and (*m*) of paragraph (3) of this regulation shall not apply in relation to a person rendering specialist services pursuant to section 3 of the Act.

For substitute paragraph, *vide* p. 456.

PART III

OFFICERS OF LOCAL HEALTH AUTHORITIES

Application

39.—(1) As from the appointed day, this part of these regulations shall apply to any employee of a local health authority who is—

(*a*) a contributory employee or local Act contributor on the medical or nursing staff of the authority ;

(*b*) a contributory employee or local Act contributor falling within such class or description of persons as the Minister may designate, after consultation with such associations of local authorities as appear to him to be concerned ; or

(*c*) a person transferred under the Act to their employment, and who immediately before being so transferred was a contributory employee or local Act contributor :

Amended, *vide* p. 457.

Provided that—

(i) this part shall not apply in the case of an officer in the employment of a local health authority on the appointed day who immediately before that day was a contributory employee or local Act contributor, if within three months after the appointed day he gives notice in writing to the local health authority that he does not wish this part of these regulations to apply to him ; and

Deleted, *vide* p. 457.

(ii) the provisions of sub-paragraph (*c*) of this paragraph shall apply to such an officer as is therein mentioned only so long as he remains in the employment of the local health authority to which he was transferred under the Act, whether in the same post or in any other post.

Deleted, *vide* p. 457.

(2) If such an officer as is mentioned in sub-paragraph (*c*) of the preceding paragraph is transferred under the Act before the appointed day, this regulation shall have effect in relation to him as if the date of transfer were the appointed day.

(3) A person who by virtue of a single appointment under any authority which is a local health authority is engaged in services in respect of which he is an officer to whom this part applies and also in other services shall not be treated as an officer to whom this part applies unless in such appointment he is mainly engaged in such services as are first hereinbefore mentioned.

Extension and Modification of the Act of 1937 *and Local Act Schemes*

Amended, *vide* p. 457.

40.—(1) The Act of 1937 and any local Act scheme shall extend and apply in relation to any officer to whom this part applies as if, in consideration of the contributions required thereby, there were substituted for any title accruing in respect of service reckonable thereunder to a superannuation allowance, lump sum retiring allowance, injury allowance or death gratuity a title to such benefits as are conferred by regulations 5 to 7 inclusive, as modified by regulation 28, and regulation 10, and there were conferred by the Act or scheme in addition, or in substitution for any similar benefits to which an officer might become entitled thereunder, in respect of service reckonable under the Act or scheme, the benefits conferred by regulations 8, 9 and 11, and the Act of 1937 and any local Act scheme shall have effect accordingly, with any necessary modifications, including the modification in relation to a local Act scheme that references to contributing service in any of the said regulations shall be read as references to service, and references to non-contributing service shall be disregarded.

For substitute paragraph, *vide* p. 457.

(2) The amount of any retiring allowance to which an officer to whom proviso (i) to paragraph (1) of the last preceding regulation applies, and who does not exercise the option thereby conferred, may become entitled shall be increased, as nearly as may be, in accordance with the provisions of regulation 23 (2).

(3) The Act of 1937, in its application to any such officer as aforesaid, shall be further modified to confer a right on him by

making payments similar to those provided for by the fourth schedule to reckon any period of non-contributing service as a period of contributing service, and shall have effect as if the provisions of the fourth schedule were incorporated therein with any necessary modifications.

(4) Any pension or injury allowance to which any such officer as aforesaid becomes entitled in consequence of this regulation shall be granted subject to the conditions contained in regulations 20 and 21, with any necessary modifications, in lieu of any similar conditions in corresponding provisions of the Act of 1937 or any local Act scheme.

For Reg. 40 (5), *vide* p. 457.

Application to Voluntary Organisations of the Act of 1937 *and Local Act Schemes*

For Reg. 40A *vide* pp. 457–8.

41.—(1) If application for the purpose is made to a local health authority by a voluntary organisation engaged in the provision in the area of the authority of services under Part III of the Act or under the Mental Deficiency Acts, 1913 to 1938, the authority, or, in the case of an authority who are not an administering authority or local Act authority, the administering authority, shall admit any members of such classes of employee of the organisation and on such terms and conditions as may be approved by the Minister, to participate in the benefits of the superannuation fund maintained by them, and in that event the Act of 1937, as modified by these regulations in any case in which that Act as so modified is applicable, shall have effect in relation to the organisation and any employee so admitted as if the organisation were a local authority and the employee were a contributory employee, and any local Act scheme, as modified by these regulations in any case in which that scheme as so modified is applicable, shall have effect as if the employee were a local Act contributor, and the organisation shall in either case have all such powers as may be necessary for the purposes of giving effect to the terms and conditions approved by the Minister.

(2) An admission agreement made under subsection (5) of section 5 of the Act of 1937 and in force immediately before the appointed day shall, notwithstanding the repeal of that subsection by these regulations, continue in force as if made under this regulation, subject, however, to such modifications and adaptations as the parties concerned may, with the approval of the Minister, determine to be necessary for bringing it into accordance with the provisions of this regulation.

PART IV

OFFICERS OF LOCAL EDUCATION AUTHORITIES

Application of Part III

42. As from the appointed day, part III of these regulations shall also apply, with the necessary modifications, to any contributory employee or local Act contributor employed by a local education authority for the purposes of the school health service who is an officer falling within the class mentioned in regulation 39 (1) (*a*) or who is an officer falling within such class or description as the Minister may designate, after consultation with such associations of local authorities as appear to him to be concerned :

Amended, *vide* p. 458.

Provided that this part shall not apply in the case of an officer in the employment of a local education authority on the appointed day who immediately before that day was a contributory employee or local Act contributor, if within three months after the appointed day he gives notice in writing to the local education authority that he does not wish this part of these regulations to apply to him.

PART V

MISCELLANEOUS

Officers Holding Other Employment

43.—(1) If an officer in the employment of an employing authority, being an officer to whom part I applies (other than an officer who has exercised an option under regulation 22 which has not ceased to have effect), is simultaneously employed in any other employment in which, but for the provisions of this regulation, he would be a contributory employee or local Act contributor, then, if the total time spent by him in those employments is wholly or mainly devoted to health services (including the school health service), the provisions of part I of these regulations shall also apply to him in relation to such other employment as aforesaid in lieu of the provisions of the Act of 1937 or the local Act scheme, as the case may be, as if the authority or body by whom he is employed were an employing authority.

Amended, *vide* p. 458.

(2) Where a person becomes subject to the provisions of part I of these regulations by virtue of the preceding paragraph in any employment in which he was a contributory employee or local Act contributor immediately before becoming so subject, then, for the purposes of these regulations, if he becomes so subject on being transferred under the Act to the employment of an employing

authority, he shall also be treated as having been transferred under the Act to such first mentioned employment, and, if he becomes so subject otherwise than on being transferred under the Act, he shall be treated as having entered such employment at the date on which he becomes so subject, and in either case a transfer value shall be payable to the Minister in accordance with the provisions of regulation 47.

(3) Where a person ceases to be subject to the provisions of part I of these regulations in relation to any such other employment as is mentioned in paragraph (1) of this regulation by virtue of that paragraph having ceased to apply, and he becomes in that employment a contributory employee or local Act contributor, as the case may be, he shall be treated for the purposes of these regulations as having become a contributory employee or local Act contributor in that employment immediately after ceasing to be employed by an employing authority, and a transfer value shall be payable by the Minister in accordance with the provisions of regulation 49.

Reckoning of Service on Transfer to Other Employment

44.—(1) Where a person, within twelve months after leaving employment as an officer of an employing authority or, in the case of a person who left such employment in order to undertake national service, within six months after the termination of that service, and without having become entitled to any benefit under these regulations other than a return of contributions, becomes a contributory employee, local Act contributor, established civil servant or a person in contributory service under the Teachers Acts otherwise than under any scheme made under section 21 (1) (*a*) of the Act of 1925, and otherwise than by virtue of section 13 (2) (*g*) of that Act, he shall be entitled :—

(*a*) if he becomes a contributory employee, to reckon as service, contributing service and non-contributing service respectively, all periods of employment, war service or national service which he was so entitled to reckon for the purposes of these regulations in relation to his employment under the employing authority immediately before he ceased to be employed by them, and as contributing service any period of national service after so ceasing to be employed, excluding, in the event of his having received a return of contributions on or after so ceasing to be employed, any part of that period after the date of the return ;

(*b*) if he becomes a local Act contributor, to reckon his previous service and any period of national service after so ceasing to be employed in such manner as the Minister may approve

with a view to securing, so far as is reasonably practicable, that he shall enjoy rights under the local Act scheme applicable to him substantially similar to those which he would have enjoyed under the last preceding sub-paragraph had he become a contributory employee ; and

(*c*) if he becomes an established civil servant or a person in such contributory service under the Teachers Acts as aforesaid, to reckon as established service or contributory service, as the case may be, all periods of employment, war service or national service which for the purposes of these regulations he was entitled to reckon as contributing service or non-contributing service in relation to his employment under the employing authority immediately before he ceased to be employed by them, and any period of national service after so ceasing to be employed, excluding, in the event of his having received a return of contributions on or after so ceasing to be employed, any part of that period after the date of the return, and to reckon as established service for the purpose of determining whether he has served for the minimum period prescribed under the Superannuation Acts for the payment of a superannuation allowance or additional allowance or gratuity to his personal representatives on his death, or as qualifying service for the purposes of the Teachers Acts, any service which he was entitled to reckon in relation to his former employment solely for the purpose of determining whether he was entitled to any benefit under these regulations :

Provided that—

(i) the foregoing provisions of this paragraph shall not apply to any person who does not, within three months after entering his new employment, give notice in writing to his employer of his previous period of employment and war service or national service (if any), and pay to his employer, or, if he becomes an established civil servant, repay to the Minister, or, if he becomes a person in such contributory service under the Teachers Acts as aforesaid, pay to the Minister of Education, an amount equal to any sum paid to him by way of return of contributions on or after his ceasing to hold his former employment, together with an amount equal to any income tax which was deducted from his contributions in respect of such payment ; and

(ii) for all the purposes of sub-paragraph (*c*) of this para-

graph, except the calculation of any qualifying period of service, any period of non-contributing service shall be treated as being half its actual length, and any period of part-time service shall be treated as though it were whole-time service for a proportionately reduced period.

(2) Where an established civil servant to whom sub-paragraph (*c*) of the last preceding paragraph applies ceases to be employed as such in circumstances which under these regulations would have entitled him to a return of contributions had he then ceased to be employed by an employing authority, he shall be entitled to receive from the Minister a sum equal to the amount to which he would have been so entitled as aforesaid.

(3) Where an officer of an employing authority becomes a person in contributory service under the Teachers Acts, and the provisions of paragraph (1) of this regulation do not apply to him, then, without prejudice to the proviso to section 12 (2) of the Act of 1925, as amended by these regulations, any period of employment, war service or national service which would have been reckonable under sub-paragraph (*c*) of that paragraph had that paragraph applied to him shall be treated as qualifying service for the purposes of the Teachers Acts.

Persons Subject to Non-statutory Superannuation Schemes

45.—(1) Where an employee of a local authority, being a person to whom part III or IV of these regulations applies, was within twelve months before entering their employment a person to whom the provisions of paragraph (1) or (2) of regulation 24 applied as a participant in any such scheme as is mentioned in paragraph (1) of that regulation, or in any other scheme of a similar character, that authority shall, if the employee so requests in writing within three months after entering their employment, and if the body administering the scheme consents, and makes the necessary arrangements for the purpose, pay the contributions authorised or required by the scheme to be paid by the employer, and in that event the employee shall not be subject to the Act of 1937 or any local Act scheme.

(2) Where contributions are paid by a local authority under paragraph (1) of this regulation in respect of any employee, that authority shall deduct from the remuneration payable to the employee the amount of any contributions required by the scheme to be paid by the employee.

Rights on Transfer to Non-statutory Superannuation Schemes and Approved Employment

46.—(1) Where a person within twelve months after ceasing to be employed as an officer by an employing authority and without having received a return of contributions or become entitled to any other benefit under these regulations becomes a participant in the superannuation scheme operated under the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers or any other superannuation scheme approved by the Minister, he may within three months thereafter notify the Minister that he desires the provisions of this paragraph to apply to him, and, in that event, the Minister may, if the body administering the scheme undertakes to invest or secure the investment of such sum for his benefit under the scheme, and to comply with the provisions of the next succeeding paragraph, pay to that body a sum not exceeding the amount of the transfer value which would have been payable under regulation 49 had he become a contributory employee in circumstances to which that regulation applies.

(2) If a person to whom the preceding paragraph has been applied ceases to participate in the scheme in circumstances in which the only benefit to which he becomes entitled is a sum by way of the return of any of his contributions thereunder, the body administering the scheme shall also pay to him a sum equal to the amount which would have been paid to him by way of a return of his contributions under these regulations on his ceasing to be employed as an officer of an employing authority, and shall refund to the Minister an amount equal to the sum paid by the Minister under the preceding paragraph in respect of him, after the deduction therefrom of a sum equal to the amount paid to him by way of a return of his contributions under these regulations, and the addition thereto of an amount equal to interest on the sum so paid by the Minister, as from the date of payment, at the rate which would have been payable under the scheme on contributions returned thereunder at the date on which the sum was paid by the Minister.

(3) If such a person as is mentioned in the last preceding paragraph, within twelve months after ceasing so to participate in the scheme and within five years after ceasing to be employed as an officer by an employing authority, again becomes an officer of an employing authority to whom part I of these regulations applies, he shall be entitled, if he pays or repays to the employing authority any contributions under these regulations returned to him by the body administering the scheme, to reckon as service, contributing service and non-contributing service respectively, all periods of

employment, war service or national service which he was so entitled to reckon in relation to his employment under the former employing authority immediately before the date on which he ceased to be employed by them.

(4) Where a person within twelve months after ceasing to be employed as an officer by an employing authority, and without having received a return of contributions or become entitled to any other benefit under these regulations, enters employment in which he does not become entitled to reckon his service under these regulations for the purpose of participating in any superannuation benefits, otherwise than for the sole purpose of determining whether any such benefits are payable, he may, unless he is a person to whom paragraph (1) of this regulation has been applied, within three months after entering that employment, apply to the Minister to approve the employment for the purposes of this paragraph, and if the employment is so approved and—

(*a*) if he ceases to hold that employment, or any other employment approved by the Minister for the purposes of this paragraph, in such circumstances, including that of his age, as, had they obtained when he ceased to hold his employment under the employing authority, would have entitled him to any benefit under these regulations, the Minister may grant him that benefit, as from the date on which he ceases to hold the approved employment, calculated as if he had become entitled to that benefit at the date on which he ceased to be an officer of the employing authority ;

(*b*) if he dies while in approved employment, the Minister may grant the like benefits (if any) by way of widow's pension and death gratuity as would have been granted if he had died immediately before he ceased to be employed by the employing authority ; or

(*c*) if within twelve months after ceasing to hold approved employment he again becomes an officer of an employing authority to whom part I of these regulations applies, he shall be entitled to reckon as service, contributing service and non-contributing service respectively all periods of employment, war service or national service which he was so entitled to reckon in relation to his employment under the former employing authority immediately before the date on which he ceased to be employed by them :

Provided that in the application of regulation 10 for the purpose of sub-paragraph (*b*) of this paragraph the reference to a sum equal to his average remuneration shall be disregarded.

Transfer Values Payable to the Minister

47.—(1) Where a person becomes an officer of an employing authority within twelve months after ceasing to be a contributory employee or local Act contributor, or, in the case of a person who so ceased in order to undertake war service, within six months after the termination of his war service, and without having become entitled to any benefit under the Act of 1937 or local Act scheme other than a return of contributions, the like transfer value shall be payable to the Minister out of the fund in relation to which the person was a contributor by the authority maintaining that fund as would have been payable under the regulations for the time being in force by virtue of section 29 of the Act of 1937 had the person as such officer become a contributory employee, less an amount equal to any sum which the trustees of the fund may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value :

Provided that—

(*a*) in the case of a person to whom regulation 22 (3) applies, the transfer value shall be increased by such amount as the Minister shall determine to be actuarially equivalent to the liability of which the fund therein referred to is relieved as a result of that person ceasing to be a contributor thereto, and such amount as aforesaid shall be paid out of that fund ; and

(*b*) where an authority maintaining a superannuation fund under the Act of 1937 has been dissolved, any transfer value which under the provisions of this paragraph would otherwise have been payable out of that fund shall be paid by the local authorities who appointed the first mentioned authority.

(2) Where on the appointed day more than one transfer value becomes payable out of a superannuation fund by any authority under paragraph (1) of this regulation, then—

(*a*) any transfer value payable may, with the Minister's consent, be paid by instalments of equal amounts spread over a period of not more than ten years after the appointed day, the first instalment to become payable on the appointed day, together with compound interest on the amount for the time being unpaid at the rate of three per cent. per annum, with half yearly rests ;

(*b*) if the Minister so directs, or the authority so requests, the actuary making the next actuarial investigation of the fund after the appointed day shall certify in accordance with

the provisions of the fifth schedule the liability of which the fund was relieved on the appointed day in consequence of persons who had been contributors thereto having become on that day officers of any employing authority ;

(*c*) if the amount of the liability so certified is less than the amount already paid on account of transfer values, the Minister shall repay the excess to the superannuation fund, together with compound interest, calculated at the rate of three per cent. per annum, on any sum overpaid, as from the date of payment ;

(*d*) if the amount of the liability so certified exceeds the amount of the transfer values, and—

(i) if such transfer values were paid in a lump sum or, having been payable by instalments, have been fully paid, the authority shall pay to the Minister out of the fund the amount of the deficiency, together with compound interest thereon, calculated as aforesaid, as from the appointed day ; or

(ii) if such transfer values were being paid by instalments, the liability in respect of any instalments remaining unpaid shall be adjusted in such manner as the actuary shall certify to be appropriate ; and

(*e*) if nothing has been paid on account of transfer values, the amount of the liability so certified shall be paid to the Minister, either in a lump sum, together with compound interest thereon, calculated as aforesaid, as from the appointed day, or by such instalments as are mentioned in sub-paragraph (*a*) of this paragraph.

(3) Where any such person as is mentioned in paragraph (1) of this regulation, had, before becoming a contributory employee or local Act contributor, been subject to the Act of 1909, and the body by whom he was last employed while subject to that Act would, if he had become entitled to a superannuation allowance as such contributory employee or local Act contributor, have been liable to contribute to that allowance, that body, or if that body has been dissolved or has ceased to exercise functions as such, the appropriate authority in relation to that body, shall pay a transfer value to the Minister in accordance with the provisions of part I of the sixth schedule.

(4) Where the body mentioned in the last preceding paragraph would in the circumstances therein mentioned have had, in respect of any such contribution to a superannuation allowance as is therein mentioned, a right of contribution from any other body, that other body, or if that other body has been dissolved or has ceased to

exercise functions as such, the appropriate authority in relation to that other body, shall also pay a transfer value to the Minister in accordance with the provisions of part II of the sixth schedule.

(5) Where a person becomes an officer of an employing authority within twelve months after ceasing to be subject to the Act of 1909, or, in the case of a person who so ceased in order to undertake war service, within six months after the termination of that service, and without having become entitled to any benefit under the Act of 1909, other than a return of contributions, and without having become a contributory employee or local Act contributor, the body by whom he was last employed under the Act of 1909, and any other body who would have been liable to contribute towards a superannuation allowance in respect of such officer under the Act of 1909 had he become entitled to such an allowance on ceasing to be subject to the Act of 1909, or if any such body has been dissolved or has ceased to exercise functions as such, the appropriate authority in relation to such body, shall pay a transfer value to the Minister in accordance with the provisions of part III of the sixth schedule.

(6) A transfer value payable under proviso (*b*) to paragraph (1) of this regulation or under the last preceding paragraph may, with the Minister's consent, be paid by instalments of equal amounts spread over a period of not more than ten years in the former case and forty years in the latter case, after the date on which the person in respect of whom it is payable became an officer, the first instalment to become payable on that date.

(7) Where any such person as is mentioned in paragraph (1) or (5) of this regulation received a return of contributions on or after ceasing to be a contributory employee, local Act contributor or subject to the Act of 1909, as the case may be, and he does not make a payment to the employing authority in accordance with proviso (*a*) to regulation 13 (2), the Minister shall refund any transfer value or any payment on account of a transfer value received in respect of him under this regulaiton.

(8) Where a transfer value under proviso (*b*) to paragraph (1) or under paragraph (3), (4) or (5) of this regulation becomes payable by two or more local authorities jointly, the sum payable shall be apportioned amongst those authorities in such manner as they may agree or, in default of agreement, as may be determined by the Minister.

For paragraphs (8A) (8B) and (8C), *vide* p. 458.

(9) In this regulation the term "appropriate authority" in relation to a body means—

(*a*) in the case of a visiting committee appointed by a local

authority other than a joint mental hospitals board, the local authority ;

(*b*) in the case of a visiting committee appointed by a joint mental hospitals board, the local authorities who appointed the board ;

(*c*) in the case of the managers of a certified institution, the local authority who were the managers ; and

(*d*) in the case of a joint mental hospitals board or any other joint board or a joint committee, the local authorities who appointed the joint board or joint committee.

48.—(1) Where before the appointed day a superannuation fund is being maintained under any superannuation scheme by or on behalf of the governing body of a voluntary hospital which by virtue of the Act will be dissolved on the appointed day, then, if the employees of that body who by virtue of contributions to that fund are participants in the benefits of that scheme, or some of those employees, will, if they remain in the employment of that body, be transferred under the Act and become officers of an employing authority, and if that scheme has been approved by the Minister under regulation 13 (3) (*d*) (v), that body or the persons who on their behalf are maintaining the fund shall transfer the fund to the Minister immediately before the appointed day, and the Minister shall become liable for any payment by way of return of contributions to which any participant in the benefits of the scheme becomes entitled on the appointed day.

(2) Subject to the provisions of paragraph (1) of this regulation, where a person becomes an officer of an employing authority within twelve months after ceasing to be a contributor to a scheme approved by the Minister under regulation 13 (3) (*d*) (v), not being a scheme for providing superannuation benefits by means of contracts or policies of insurance made or effected with any of the Life Assurance Companies, and without having become entitled to any benefit under the scheme other than a return of contributions, the body administering the scheme or any persons maintaining any fund for the purposes of the scheme or the successors in title of either that body or those persons shall, if the Minister so requires, pay to the Minister a transfer value of such amount as the Minister may determine to be actuarially equivalent to the liability of which the body administering the scheme or any such fund as aforesaid is relieved as a result of that person ceasing to be subject to the scheme and becoming an officer of an employing authority.

Transfer Values Payable to the Minister

49. Where a person, within twelve months after leaving employ-

ment as an officer of an employing authority or, in the case of a person who left such employment in order to undertake national service, within six months after the termination of that service, and without having become entitled to any benefit under these regulations other than a return of contributions, becomes a contributory employee or local Act contributor, a transfer value calculated in accordance with the provisions of the seventh schedule shall be payable by the Minister to the authority maintaining the fund in relation to which the officer so becomes a contributory employee or local Act contributor, and that authority shall pay the transfer value received into that fund :

Provided that if a person, who, on or after leaving the employment of an employing authority, received a return of contributions, does not make a payment to his employer in accordance with proviso (i) to regulation 44 (1), any transfer value received in respect of him shall be refunded.

Persons Engaged on War Service

50.—(1) Where a person, but for any war service on which he was engaged, would have been transferred under the Act to the employment of an employing authority, he shall be deemed for the purposes of these regulations to have been so transferred if he enters the employment of that authority within six months after the termination of that service.

(2) If any such person, immediately before becoming engaged on war service, was subject to the provisions of any such enactment or scheme as is mentioned in regulation 22 (1), he shall be deemed for the purposes of these regulations to have been so subject immediately before becoming an officer of an employing authority.

(3) Where a person is engaged on war service or national service at the date of the acquisition by the Minister under section 58 of the Act of a hospital at or for the purposes of which he was employed immediately before undertaking that service, and becomes an officer of an employing authority within six months after the termination of that service, he shall be deemed for the purposes of these regulations to have been employed in such hospital at the date of its acquisition by the Minister.

King Edward VII Welsh National Memorial Association Superannuation Fund

51. The King Edward VII Welsh National Memorial Association shall, in lieu of the payment of transfer value under these regulations, transfer to the Minister immediately before the appointed day the superannuation fund maintained by them under the Act of

1937, and the Minister shall become liable as from the appointed day for any payment accruing due on or after that day on account of a superannuation allowance or gratuity payable to a person who ceased to be employed by the Association before that day, or on account of a pension payable to the spouse of any such person.

Insurance Committee Officers' Superannuation Fund

52.—(1) The trustees of the Insurance Committee Officers' Superannuation Fund shall, in lieu of the payment of transfer value under these regulations, transfer to the Minister such part of the fund as at the day appointed by His Majesty by Order-in-Council under section 79 (1) of the Act for the purposes of section 68 (1) (*d*) thereof is attributable to the provision of superannuation benefits for officers employed in England and Wales immediately before that day and to the payment of superannuation allowances to persons who have ceased to be so employed before that day or of annuities to dependants of such persons, after deducting any deficiency in the fund, other than such proportionate part thereof as may be properly attributable to any continuing liabilities of the fund.

(2) For the purpose of determining what part of the fund is to be transferred to the Minister under this regulation, a valuation shall be made by the actuary to the fund, and the cost of the valuation shall be borne by the fund.

(3) The Minister shall become liable as from the appointed day aforesaid for any payment accruing due on or after that day on account of a superannuation allowance payable out of the fund to a person who ceased to be employed in England or Wales before that day, or on account of an annuity to any of his dependants.

Determination of Questions

53. Any question arising under these regulations as to the rights or liabilities of an officer of an employing authority or of a person claiming to be treated as such shall be determined by the Minister.

For substitute regulation, *vide* p. 459.

Amendment of the Teachers Acts

54. As from the appointed day, the provisions of the Teachers Acts shall be amended in the following manner, that is to say :—

(*a*) in the Act of 1925—

(i) for proviso (*a*) to paragraph (*b*) of subsection (1) of section 2, there shall be substituted the following provision, namely " (*a*) no service in respect of which contributions are payable by virtue of regulations made under subsection (1) of section 67 of the

National Health Service Act, 1946, shall be deemed to be contributory service ; "

(ii) in the proviso to subsection (2) of section 12, there shall be inserted after the words " contributory service," the words " or if a teacher who became an officer entitled to participate in superannuation benefits provided by regulations made by the Minister of Health under subsection (1) of section 67 of the National Health Service Act, 1946, and, on or after ceasing to be such an officer, received under those regulations a return of contributions which included his teacher's contributions, becomes employed in contributory service more than twelve months after so ceasing, or, if he so ceased in order to undertake national service, more than six months after ceasing so to serve," and there shall be inserted after the words " repaid to him " the words " in respect of his teacher's contributions " ;

(iii) in paragraph (*a*) of subsection (5) of section 12, there shall be substituted for the words " excluding any which have been previously repaid " the words " including, in the case of a teacher who has entered contributory service otherwise than under any scheme made under paragraph (*a*) of subsection (1) of section 21 of this Act, and otherwise than by virtue of paragraph (*g*) of subsection (2) of section 13 of this Act, after having been an officer entitled to participate in superannuation benefits provided by regulations made by the Minister of Health under subsection (1) of section 67 of the National Health Service Act, 1946, and who has become entitled to reckon any period of employment as contributory service by virtue of those regulations, the amount of his contributions within the meaning of those regulations, but excluding any contributions in respect of any period of recognised or contributory service which has ceased to be entitled to reckon as such, whether by virtue of this Act or those regulations, and which he has not again become entitled so to reckon " ;

(iv) the following words shall be added at the end of paragraph (*b*) of subsection (5) of section 12, namely, " Provided that in the case of contributions made under such regulations as are mentioned in the last

preceding paragraph the interest shall be calculated in manner provided by those regulations up to the date on which the teacher entered contributory service, or, if he received a return of those contributions before that date, up to the date of such return "; and

(v) in subsection (i) of section 15, there shall be inserted after the words " deemed to be revenue or expenditure " the words " and any amounts which for the purposes of any provisions relating to accounts and actuarial investigations contained in regulations made by the Minister of Health under subsection (1) of section 67 of the National Health Service Act, 1946, are treated as if they were payable by or to the Minister of Health to or by the Minister of Education " ;

(*b*) in subsection (1) of section 1 of the Teachers (Superannuation) Act, 1945—

(i) in paragraph (*e*), there shall be inserted after the words " Mental Deficiency Act, 1913," the words " or in an institution for defectives vested in the Minister of Health under the National Health Service Act, 1946 (other than an institution designated by him for defectives of violent or dangerous propensities) ", and there shall be substituted for the words " that Act " the words " the Mental Deficiency Act, 1913 " ; and

(ii) in paragraph (*g*), there shall be substituted for the words from " a scheme in force " to the end of the paragraph the words " subsection (2) of section 51 of the National Health Service Act, 1946 ; ".

Special Provisions Affecting Local Authorities in Relation to Officers who have Served as Teachers

55.—(1) Where an officer of an employing authority who before becoming such an officer was in contributory service under the Teachers Acts, and in whose case any period of employment in full time service before the first day of April, 1926, is, by virtue of proviso (*c*) to regulation 13 (2), not reckonable or reckonable at half its actual length, ceases to be employed, and any benefit other than a return of contributions becomes payable to or in respect of him under these regulations, the local education authority by whom he was last employed may pay to or in respect of him the amounts by which

the said benefits would have been increased if the said service had been reckonable in full.

(2) Where an officer of an employing authority who before becoming such an officer was in contributory service under the Teachers Acts, and in whose case any period of employment before the first day of April, 1930, is, by virtue of paragraph (*b*) of subsection (5) of section 124 of the Local Government Act, 1929,[1] and these regulations, reckoned as service, ceases to be employed, and any benefit becomes payable to or in respect of him under these regulations, the council to whom he was transferred by the said Act of 1929 shall, either by means of a single payment, or by means of such periodical payments as the Minister may determine, pay to the Minister such sum as may be determined by him to represent, after taking into account any sum previously paid on account of the officer under this provision, the present value of such part of the sums payable or to become payable to or in respect of him under these regulations as is attributable to the said service.

Employment of Officer to be treated as Approved External Service or as Qualifying Service under the Teachers Acts in special cases

56.—(1) Where an established civil servant whose service as such is treated as approved external service under section 13 (1) (*b*) of the Act of 1925, or under the Teachers (Superannuation) Act, 1946,[2] becomes an officer of an employing authority to whom regulation 13 (2) applies, his employment under that authority shall be treated for the purposes of section 13 (1) (*b*) of the Act of 1925 in the same manner as his service as an established civil servant.

(2) Where a person in contributory service under the Teachers Acts becomes an officer of an employing authority to whom regulation 13 (2) does not apply, his employment under that or any other authority, and any national service which is reckonable as service in relation to that employment, shall be treated as qualifying service for the purposes of the Teachers Acts.

Amendment of the Act of 1937 *and Local Act Schemes*

57. The provisions of section 10 of the Act of 1937, and the corresponding provisions of any local Act scheme, shall have effect in relation to a contributory employee or local Act contributor who has been an officer of an employing authority as if references therein to contributions which may be returned thereunder on such an employee or contributor ceasing to be employed or dying included

[1] 19 & 20 Geo. 5, c. 17. [2] 9 & 10 Geo. 6, c. 60.

references to contributions and additional contributory payments made by him under or in pursuance of these regulations, in so far as any such contributions or payments have not been returned to and retained by him, and are attributable to service which might have been reckoned under the Act of 1937 or the local Act scheme, as the case may be, for the purposes of superannuation allowance in respect of the employment which he has ceased to hold or in which he has died, as the case may be.

Amendment of the Pensions (Increase) Act, 1944

58.—(1) The Pensions (Increase) Act, 1944,[1] shall have effect as if a pension or injury allowance payable under these regulations were specified in Part I of the First Schedule to that Act.

(2) The said Act shall continue to have effect in relation to pensions payable under the King Edward VII Welsh National Memorial Association Acts, 1939 and 1940, or in respect of service under any insurance committee appointed under the National Health Insurance Act, 1936,[2] (including a committee formed by a combination of insurance committees under section 94 of that Act), in respect of which the Minister becomes liable to make payments under regulation 51 or 52 (3).

Amendment of the Superannuation Act, 1946

59. The following words shall be added at the end of paragraph 6 of the Second Schedule to the Superannuation Act, 1946,[3] namely, " and as if, in paragraph (*b*) of subsection (3) thereof, for the words " on his retirement from the service of such a local authority as aforesaid " there were substituted the words " if he retires from the service of such a local authority as aforesaid, or from employment as an officer entitled to participate in superannuation benefits provided by regulations made by the Minister of Health under subsection (1) of section 67 of the National Health Service Act, 1946," after the words " that local authority " there were inserted the words " or the Minister of Health, as the case may be," and after the words " annual superannuation allowance " there were inserted the words " or pension "."

Repeals and Savings

60.—(1) As from the appointed day, the enactments specified in the ninth schedule shall be repealed to the extent therein specified.

(2) Nothing in the repeal by this regulation of the Act of 1909 shall affect the rights or liabilities under that Act or the Local

[1] 7 & 8 Geo. 6, c. 21.
[2] 26 Geo. 5 & 1 Edw. 8, c. 32.
[3] 9 & 10 Geo. 6, c. 60.

Government Staffs (War Service) Act, 1939, of any person who is on war service on the appointed day or of any body by whom that person had been employed under the Act of 1909, and in relation to any such person or body the provisions of the Act of 1909 and of the said Act of 1939 shall continue to have effect on and after the appointed day as if the Act of 1909 had not been repealed :

Provided that if any body by whom any such person was employed under the Act of 1909 has been dissolved or has ceased to exercise functions as such, any rights or liabilities conferred or imposed on that body by the Act of 1909 or the said Act of 1939 and preserved by this paragraph shall be deemed to have been conferred or imposed on the appropriate authority in relation to that body.

(3) Nothing in the repeal by this regulation of the provisions of the Act of 1909 and of section 11 (9) of the Mental Treatment Act, 1930,[1] shall affect the right of any person or the legal personal representatives of any person who is or has been a commissioner of the Board of Control, and who prior to his appointment as such was a person in respect of whom contributions were paid under the Act of 1909, to receive any benefit to which he or they would have been entitled had those provisions not been repealed :

Provided that any superannuation allowance payable by any body under the foregoing provision shall, if that body has been dissolved or has ceased to exercise functions as such, be payable by the appropriate authority in relation to that body, and the body paying the superannuation allowance shall have the like right of contribution (if any) under the proviso to section 12 of the Act of 1909 as if that proviso had not been repealed, and as if references in that proviso to a visiting committee or committees were references to the appropriate authority in relation to any such committee.

(4) As from the appointed day, paragraph 2 (1) (*b*) of Part V of the Second Schedule to the Act of 1937 shall have effect with respect to persons who ceased to be established officers or servants under the Act of 1909 before that day, as if any obligation to contribute imposed or any right of contribution conferred by that paragraph upon a body which has been dissolved, or has ceased to exercise functions as such, were imposed or conferred upon the appropriate authority in relation to that body, and as if the proviso to section 12 of the Act of 1909 had not been repealed.

(5) Any sum payable or due under this regulation by or to two or more local authorities jointly shall be apportioned amongst those authorities in such manner as they may agree or, in default of agreement, as may be determined by the Minister.

[1] 20 & 21 Geo. 5, c. 23.

(6) In this regulation the term "appropriate authority" in relation to a body has the same meaning as in regulation 47 (9).

SCHEDULES

Regulation 9. FIRST SCHEDULE

ALLOCATION OF PART OF PENSION OR INJURY ALLOWANCE

1. A person shall not surrender—
   (*a*) more than one-third of the injury allowance to which he is entitled or of the pension to which he is entitled or, in a case in which regulation 30 applies, the pension to which he would be entitled apart from the provisions of that regulation ;
   (*b*) any such part as would make the amount of the reduced pension or allowance which is or may become payable to him less than the amount of the pension which might become payable to the person in whose favour the allocation is made (hereinafter referred to as the "beneficiary") ;
   (*c*) a smaller part than would secure for the beneficiary a pension equal to one-fourth of the amount of the reduced pension or allowance ; or
   (*d*) any part which is not an exact number of pounds.

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

3.—(1) Upon a person becoming eligible to notify his desire to surrender part of his pension or injury allowance, the employing authority shall furnish him with a copy of regulation 9 and of this schedule, and of the Tables for the time being in force, together with two copies of a form of notification of surrender of pension or injury allowance, and, in the case of an officer to whom regulation 9 (2) applies, a provisional estimate of the value of the pension that may become payable to him.

(2) A person to whom regulation 9 (1) applies, and who desires to surrender a part of his pension or injury allowance, shall notify the employing authority accordingly not later than one month after the date on which he ceases to be employed.

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

5. On receipt by the Minister of a notification given by a person under the last preceding paragraph—
   (*a*) the Minister shall arrange for the person to be examined by a registered medical practitioner nominated by the Minister, with a view to obtaining from such practitioner a report stating whether, in his opinion, the person is in good health, regard being had to his age ; and if the opinion stated in such report is that he is not in good health, the Minister shall

notify him accordingly, and offer him an opportunity of a further examination by some other registered medical practitioner nominated by the Minister ;

(*b*) the Minister shall require the person to furnish at his own expense—

(i) a certified copy of his birth certificate, except where the date of birth has been duly recorded by the Minister and is not disputed ; and

(ii) with respect to the beneficiary, a birth certificate, a marriage certificate (in the case of a spouse) and any other information or evidence which the Minister may consider necessary :

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

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

7.—(1) Subject to the provisions of these regulations, unless the Minister is of opinion, on a consideration of a report obtained by him under paragraph 5 of this schedule, that the person to whom the report relates is not in good health, or unless he is of opinion that the evidence produced in regard to age or marriage is not satisfactory, he shall accept the surrender of such part of the pension or injury allowance as is specified in the person's notification and as is in conformity with this schedule, and shall grant to the beneficiary named in the notification a pension in accordance with the provisions of paragraph 2 of this schedule.

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

8.—(1) An officer to whom regulation 9 (2) applies may, at any time before he ceases to be employed, cancel or amend a notification given by him by a notice in writing addressed to the Minister.

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

9.—(1) A notification given by a person to whom regulation 9 (1) applies shall become null and void if the beneficiary dies before the Minister accepts the notification, and a notification given by an officer to whom regulation 9 (2) applies shall become null and void if the beneficiary dies before midnight on the day on which the officer ceases to be employed.

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

Proviso (i) *to regulation* 11 (3).

SECOND SCHEDULE

TABLE A—REDUCTION OF WIDOW'S PENSION

Husband's age at death	Percentage reduction to be made where wife was younger than her husband by the following number of years—												
	2 and under 3 years	3 and under 4 years	4 and under 5 years	5 and under 6 years	6 and under 7 years	7 and under 8 years	8 and under 9 years	9 and under 10 years	10 and under 11 years	11 and under 12 years	12 and under 13 years	13 and under 14 years	14 and under 15 years
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
42 and under 43	—	—	—	—	—	—	—	—	—	—	—	—	—
43	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼
44	¼	¼	½	½	½	½	½	½	½	½	½	½	½
45	¼	½	¾	1	1	1	1	1	1	1	1	1	1
46	¼	¾	1	1¼	1½	1½	1½	1½	1½	1½	1½	1½	1½
47	¼	¾	1¼	1¾	2	2	2	2	2	2	2	2	2
48	¼	1	1¾	2¼	2½	2¾	2¾	2¾	2¾	2¾	2¾	2¾	2¾
49	½	1¼	2	2¾	3¼	3½	3¾	3¾	3¾	3¾	3¾	3¾	3¾
50	½	1½	2½	3¼	4	4¼	4½	4¾	5	5	5	5	5
51	¾	1¾	2¾	3¾	4½	5	5½	6	6¼	6¼	6¼	6¼	6¼
52	¾	2	3¼	4¼	5	5¾	6½	7¼	7½	7¾	7¾	7¾	7¾
53	¾	2¼	3¾	4¾	5¾	6¾	7½	8¼	8¾	9	9¼	9¼	9¼
54	1	2½	4	5¼	6½	7½	8½	9¼	10	10¼	10½	10¾	10¾
55	1	2¾	4¼	5¾	7¼	8½	9½	10¼	11	11½	12	12¼	12½
56	1	3	4¾	6½	8	9¼	10¼	11¼	12	12¾	13¼	13¾	14
57	1¼	3¼	5¼	7	8¾	10¼	11¼	12¼	13¼	14	14¾	15¼	15¾
58	1¼	3½	5½	7½	9¼	11	12¼	13½	14½	15¼	16	16¾	17½
59	1¼	3¾	6	8¼	10	11¾	13¼	14½	15½	16½	17½	18½	19¼
60	1¼	4	6½	8¾	10¾	12½	14¼	15½	16¾	18	19	20	21
61	1½	4¼	7	9¼	11½	13½	15¼	16¾	18	19¼	20½	21½	22½
62	1½	4½	7¼	9¾	12¼	14½	16¼	18	19¼	20½	21¾	23	24
63	1¾	4¾	7½	10¼	13	15¼	17¼	19	20½	21¾	23	24¼	25½
64	1¾	5	8	11	13¾	16¼	18¼	20	21½	23	24½	25¾	27

TABLE A—REDUCTION OF WIDOW'S PENSION—*continued.*

Husband's age at death	Percentage reduction to be made where wife was younger than her husband by the following number of years—												
	2 and under 3 years	3 and under 4 years	4 and under 5 years	5 and under 6 years	6 and under 7 years	7 and under 8 years	8 and under 9 years	9 and under 10 years	10 and under 11 years	11 and under 12 years	12 and under 13 years	13 and under 14 years	14 and under 15 years
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
65	1¾	5¼	8½	11½	14½	17	19¼	21	22¾	24¼	25¾	27¼	28½
66	1¾	5½	8¾	12	15	17¾	20	22	23¾	25½	27	28½	30
67	2	5¾	9¼	12½	15½	18½	20¾	23	24¾	26½	28¼	30	31½
68	2	5¾	9½	13	16¼	19	21½	24	26	27¾	29½	31¼	32¾
69	2	6	9¾	13½	16¾	19¾	22¼	24¾	27	29	31	32¾	34¼
70	2¼	6¼	10¼	13¾	17¼	20¼	23	25½	28	30¼	32¼	34	35½
71	2¼	6½	10½	14¼	17¾	21	23¾	26¼	29	31¼	33¼	35¼	36¾
72	2¼	6¾	10¾	14½	18¼	21½	24½	27¼	29¾	32¼	34½	36¼	38
73	2¼	6¾	11	15	18¾	22	25¼	28	30¾	33¼	35½	37½	39¼
74	2½	7	11¼	15½	19¼	22¾	26	29	31¾	34¼	36½	38½	40½
75	2½	7¼	11¾	16	19¾	23¼	26½	29¾	32¾	35¼	37½	39½	41½
76	2⅝	7½	12¼	16½	20¼	23¾	27¼	30½	33½	36¼	38½	40¾	42¾
77	2¾	7¾	12½	17	21	24½	28	31¼	34¼	37	39½	41¾	43¾
78	2¾	8	13	17½	21½	25¼	28¾	32	35¼	38	40½	42¾	44¾
79	2¾	8¼	13¼	17¾	22	25¾	29¼	32¾	36	39	41½	44	46
80	2¾	8¼	13¼	18	22½	26½	30	33½	36¾	39¾	42½	45	47
81	2¾	8¼	13½	18½	23	27	30¾	34¼	37½	40½	43½	46	48
82	3	8½	13¾	18¾	23½	27¾	31½	35	38¼	41¼	44¼	47	49
83	3	8¾	14	19¼	24	28½	32¼	35¾	39	42	45	47¾	50
84	3	9	14½	19¾	24½	29	33	36½	39¾	42¾	45¾	48½	50¾
85	3	9¼	14¾	20	25	29½	33½	37	40¼	43½	46½	49¼	51½

Table B—Increase of Widow's Pension

Husband's age at death	Percentage increase to be made where wife was older than her husband by the following number of years—							
	2 and under 3 years	3 and under 4 years	4 and under 5 years	5 and under 6 years	6 and under 7 years	7 and under 8 years	8 and under 9 years	9 and under 10 years
	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.	Per cent.
31 or under	—	—	—	—	—	—	—	—
32	—	—	—	—	—	—	—	¼
33	—	—	—	—	—	—	¼	¾
34	—	—	—	—	—	¼	¾	1½
35	—	—	—	—	¼	¾	1½	2¼
36	—	—	—	¼	¾	1½	2¼	3
37	—	—	¼	¾	1½	2¼	3	4
38	—	¼	¾	1¼	2	3	4	5
39	—	½	1	1¾	2½	3½	4¾	6
40	—	½	1¼	2	3	4¼	5½	7
41	¼	¾	1½	2½	3½	5	6½	8¼
42	¼	1	1¾	3	4¼	5¾	7½	9½
43	¼	1	2	3½	5	6¾	8¾	10¾
44	¼	1¼	2½	4	5¾	7¾	10	12¼
45	½	1½	2¾	4½	6½	8¾	11¼	13¾
46	½	1¾	3¼	5¼	7¼	9¾	12½	15¼
47	¾	2	3¾	5¾	8	10¾	13¾	16¾
48	¾	2¼	4¼	6½	9	11¾	15	18¼
49	1	2¾	4¾	7¼	9¾	12¾	16	19¾
50	1	3	5¼	7¾	10¾	13¾	17¼	21¼
51	1¼	3¼	5¾	8½	11½	14¾	18½	22½
52	1¼	3½	6¼	9¼	12¼	15¾	19½	24
53	1¼	4	6¾	10	13¼	16¾	20¾	25½
54	1½	4¼	7¼	10¾	14¼	17¾	22	27
55	1½	4½	7¾	11¼	15	19	23½	28½
56	1½	4¾	8	11¾	15¾	20¼	25	30
57	1¾	5	8½	12½	16¾	21¼	26¼	31½
58	1¾	5¼	9	13¼	17½	22¼	27½	33
59	1¾	5½	9½	14	18½	23¼	28¾	34¾
60	2	5¾	10	14½	19¼	24½	30¼	36½
61	2	6	10¼	15	20¼	25¾	31¾	38
62	2	6¼	10¾	15¾	21¼	27	33¼	39½
63	2¼	6½	11	16¼	22	28	34½	41
64	2¼	6¾	11½	17	22¾	29	35¾	42¾
65	2¼	7	12	17¾	23¾	30¼	37	44½
66	2½	7¼	12½	18½	24¾	31¼	38½	46¼
67	2½	7½	13	19	25½	32¼	39¾	48
68	2½	7¾	13¼	19½	26¼	33¼	41	49¾
69	2½	8	13¾	20¼	27	34½	42¼	51¼
70	2¾	8¼	14¼	20¾	27¾	35¼	43½	52¾
71	2¾	8¼	14½	21¼	28½	36¼	44¾	54¼
72	2¾	8½	14¾	21¾	29¼	37¼	46	56
73	3	8¾	15¼	22½	30¼	38½	47½	57¾
74	3	9	15¾	23¼	31¼	39¾	49	59¼
75	3	9¼	16	23¾	32	40¾	50¼	60¾

Proviso (i) *to regulation* 14 (1) (*b*).

THIRD SCHEDULE

Reckoning of Service or a period of Contribution under a Local Act Scheme

1. If in relation to part of any such service as is mentioned in paragraph (1) (*b*) (v) of regulation 14 (which part is in this paragraph referred to as " the said service ") the officer pursuant to the provisions of the local Act scheme had been discharging but had not fully discharged a liability subsisting at the date when he ceased to hold his previous employment to pay a sum by instalments to the superannuation fund maintained by the local Act authority as a condition of being entitled to reckon the said service for any of the purposes of the local Act scheme, then, for the purpose of the said regulation—

(*a*) subject to the provisions of sub-paragraph (*b*) of this paragraph, the said service shall be reckonable as non-contributing service ; and

(*b*) to the extent that one-half the aggregate amount paid on account of the sum due in discharge of the liability aforesaid would, if it were paid, pursuant to the provisions of the fourth schedule, in relation to the emoluments of his previous employment at the date when he ceased to hold that employment and to his age at that date, enable him to reckon any period of the said service as contributing service, that period shall be reckonable as contributing service.

2. If in relation to part of any such service as is mentioned in paragraph (1) (*b*) (v) of regulation 14 (which part is in this paragraph referred to as " the said service ") the officer pursuant to the provisions of the local Act scheme would, had he not ceased to hold his previous employment, have been under a liability to make payments to the superannuation fund maintained by the local Act authority by way of a contribution of a percentage of emoluments additional to the percentage payable in respect of current service as a condition of being entitled to reckon the said service for any of the purposes of the local Act scheme, then, for the purpose of the said regulation, the provisions of sub-paragraphs (*a*) and (*b*) of the last preceding paragraph shall apply in relation to the said service with the substitution for the reference in sub-paragraph (*b*) to the sum due in discharge of the liability aforesaid of a reference to additional percentage contributions.

Regulations 13 (9) *and* (10) 14 (4) *and* (5) *and* 40 (3).

FOURTH SCHEDULE

Additional Contributory Payments

1. The sum payable by an officer who desires to reckon any period of non-contributing service as contributing service shall be calculated in accordance with the provisions of paragraph 6 of this schedule, and may be paid upon the officer's notifying the employing authority in writing within three months after his becoming an officer that he intends

to make a payment under this paragraph (the date of such notification being hereinafter referred to as " the material date ") :—

(*a*) in a lump sum accompanying such notification ;

(*b*) partly in a lump sum, of not less than one-tenth of the sum payable, accompanying such notification, and as to the remainder, and subject as hereinafter provided, by such instalments as within three months after the material date may be agreed between the officer and the employing authority ; or

(*c*) wholly, subject as hereinafter provided, by such instalments as aforesaid.

2. The instalments of any sum payable under the preceding paragraph shall be of equal amounts spread over a period of not more than ten years after the material date, the first instalment to be paid within four months after the material date :

Provided that the whole of the instalments shall be payable before the date on which the officer will attain the age at which he may become eligible for a pension under these regulations on ceasing to be employed.

3. While any instalment of any sum payable under this schedule remains to be paid, the following provisions shall have effect—

(*a*) compound interest shall be payable as from the material date upon the amount for the time being unpaid, and shall be calculated at the rate of two-and-one-half per cent. per annum, with half-yearly rests ;

(*b*) if the officer becomes entitled to a pension or retiring allowance under these regulations, or if a widow's pension becomes payable thereunder on his death to his widow or if a death gratuity becomes payable in respect of him, a deduction in respect of any amount due may be made from any payments on account thereof ;

(*c*) if the officer becomes entitled to an injury allowance or dies without having become entitled to a pension or retiring allowance and without leaving a widow entitled to a widow's pension under these regulations, and no death gratuity is payable in respect of him, all liability in respect of the balance of the debt shall cease ;

(*d*) if the officer ceases to hold his employment without having become entitled to a pension or retiring allowance, then, at the expiration of twelve months, or, if the officer ceases to hold his employment in order to undertake national service, at the expiration of six months after the termination of that service, the officer shall cease to be entitled to any rights in respect of payments made by him on account of the debt, except any right to a return of the amount of such payments, and his liability in respect of the balance of the debt shall cease, unless within that period the officer, without in the meantime having become a local Act contributor in the whole-time employment of a local Act authority—

(i) enters employment in which he is an officer of an employing authority or an established civil servant, in which event, subject as hereinafter provided, his liability in respect of the balance of the debt shall continue, and the officer shall pay or repay an amount equal to any

sum which may have been returned to him in respect of payments made by him on account of the debt, together with an amount equal to any income tax which was deducted from such payments in respect of such return ; or

(ii) enters employment in which he is in contributory service under the Teachers Acts, otherwise than under a scheme made under section 21 (1) (*a*) of the Act of 1925, or otherwise than by virtue of section 13 (2) (*g*) of that Act, or enters employment under a local authority in which he is a contributory employee, in which event, subject as hereinafter provided, the right to receive the balance of the debt shall be deemed to be transferred to the Minister of Education or the local authority, as the case may be, and the officer shall pay to that Minister or authority an amount equal to any sum which may have been returned to him in respect of payments made by him on account of the debt, together with an amount equal to any income tax which was deducted from such payments in respect of such return ;

(*e*) if the officer ceases to hold any employment by virtue of his entry into which his liability in respect of the balance of the debt has been continued in accordance with the provisions of the last preceding sub-paragraph, the provisions of that sub-paragraph shall apply, with any necessary modifications, and shall continue so to apply, whenever the officer ceases to hold employment during which he has been making, but has not completed making, payments on account of the debt ; and

(*f*) the provisions of sub-paragraphs (*b*) and (*c*) of this paragraph shall apply, with any necessary modifications, whenever the officer is employed in circumstances in which his liability in respect of the balance of the debt is continued under the provisions of sub-paragraph (*d*) or (*e*) of this paragraph.

4. Where the last preceding paragraph applies in relation to a person who at any time enters two or more employments, or who simultaneously becomes a part-time officer under the authority in whose employment he is and enters the employment of another authority, the right to receive the balance of the debt shall be apportioned between the authorities concerned in such manner as the Minister shall direct.

5. Any sum payable under this schedule by an officer of an employing authority, or by a person who has ceased to be such and has become an established civil servant, shall be paid to the employing authority for transmission to the Minister.

6.—(1) For the purposes of calculating the sum to be paid by an officer under this schedule the relative Table set out below shall be used in accordance with the provisions of this paragraph.

(2) The age and remuneration of an officer means his age at the material date and the annual remuneration on which he is paying contributions on that date :

Provided that—

(*a*) if for the purposes of the foregoing provision account is required to be taken of any fees payable to an officer, other than a

practitioner, in respect of any service, the amount thereof shall be taken to be the annual average of the fees payable to him in respect of that service during the three years immediately preceding the material date or, if that service was of shorter duration, such shorter period ;

(*b*) references to contributions payable by any person shall include references to contributions which would have been payable by him but for any reduction in or suspension of his remuneration by reason of his absence from duty owing to ill-heath or injury ;

(*c*) the sum payable, whether by a practitioner or an officer other than a practitioner, in respect of any period of service as a practitioner shall be calculated by reference to the annual average of the remuneration during that period ; and

(*d*) in the case of a practitioner, the sum payable in respect of any period of service in any other capacity shall be calculated by reference to the annual remuneration on which he was paying contributions at the date on which he last ceased to be employed in such capacity, or, if in that employment he was not an officer of an employing authority, the annual emoluments of that employment.

(3) The amount shown in Table I (*a*), I (*b*), II, III or IV, as the case may require, in relation to an age which corresponds with that of the officer is an amount appropriate in respect of one hundred pounds of remuneration. A total amount is to be calculated proportionately by reference to the remuneration of the officer. Such total amount is the sum payable by the officer in order to reckon as contributing service one year of the non-contributing service which he is entitled to reckon on the material date.

For reference to Table 1A, *vide* p. 459.

(4) The sum payable by an officer in order to reckon as contributing service more than one year of the non-contributing service which he is entitled to reckon at the material date is the amount calculated in accordance with sub-paragraph (3) of this paragraph, multiplied by the number of years of the said service which the officer desires so to reckon.

(5) Any sum payable by a person to whom paragraph (1) of regulation 30 applies, in respect of any period of non-contributing service of which account would be taken under paragraph (3) of regulation 30 in calculating the amount of the reduction of any pension to which the person might become entitled under these regulations, shall be reduced by the sum shown in the appropriate column of Table V in relation to an age which corresponds with that of the person at the material date, in respect of each one pound of the amount of the reduction of the pension as aforesaid in respect of that period of service, and by a proportionate sum in respect of any fraction of a pound included in the said amount.

TABLE I

(*a*) Service of a Male Officer, not being an Officer mentioned in Table IV (other than Service as a Practitioner)

Age	Amount appropriate in respect of each £100 of remuneration	Age	Amount appropriate in respect of each £100 of remuneration
	£ s.		£ s.
Under 31 ...	5 15	48 and under 49	7 1
31 and under 32	5 16	49 ,, ,, 50	7 3
32 ,, ,, 33	5 17		
33 ,, ,, 34	5 18	50 ,, ,, 51	7 6
34 ,, ,, 35	5 19	51 ,, ,, 52	7 9
		52 ,, ,, 53	7 12
35 ,, ,, 36	6 0	53 ,, ,, 54	7 16
36 ,, ,, 37	6 1	54 ,, ,, 55	8 0
37 ,, ,, 38	6 2		
38 ,, ,, 39	6 3	55 ,, ,, 56	8 4
39 ,, ,, 40	6 4	56 ,, ,, 57	8 9
		57 ,, ,, 58	8 14
40 ,, ,, 41	6 5	58 ,, ,, 59	8 19
41 ,, ,, 42	6 7	59 ,, ,, 60	9 5
42 ,, ,, 43	6 9		
43 ,, ,, 44	6 11	60 and over ...	£9 5s. less six shillings for each completed year by which the officer's age exceeds sixty years.
44 ,, ,, 45	6 13		
45 ,, ,, 46	6 15		
46 ,, ,, 47	6 17		
47 ,, ,, 48	6 19		

(*b*) Service of a Female Officer, not being a Female Officer mentioned in Table II or IV (other than Service as a Practitioner)

	£ s.		£ s.
Under 26 ...	5 14	45 and under 46	7 15
26 and under 27	5 15	46 ,, ,, 47	7 19
27 ,, ,, 28	5 16	47 ,, ,, 48	8 2
28 ,, ,, 29	5 17	48 ,, ,, 49	8 6
29 ,, ,, 30	5 18	49 ,, ,, 50	8 10
30 ,, ,, 31	6 0		
31 ,, ,, 32	6 2	50 ,, ,, 51	8 14
32 ,, ,, 33	6 4	51 ,, ,, 52	8 18
33 ,, ,, 34	6 6	52 ,, ,, 53	9 3
34 ,, ,, 35	6 8	53 ,, ,, 54	9 7
		54 ,, ,, 55	9 12
35 ,, ,, 36	6 10		
36 ,, ,, 37	6 12	55 ,, ,, 56	9 17
37 ,, ,, 38	6 14	56 ,, ,, 57	10 2
38 ,, ,, 39	6 16	57 ,, ,, 58	10 7
39 ,, ,, 40	6 18	58 ,, ,, 59	10 13
		59 ,, ,, 60	10 19
40 ,, ,, 41	7 0		
41 ,, ,, 42	7 3	60 and over ...	£10 19s. less six shillings for each completed year by which the officer's age exceeds sixty years.
42 ,, ,, 43	7 6		
43 ,, ,, 44	7 9		
44 ,, ,, 45	7 12		

TABLE Ia

SERVICE OF A MALE MENTAL OFFICER

(See page 460)

TABLE II

SERVICE OF A FEMALE NURSE (INCLUDING MENTAL HEALTH OFFICER) OR PHYSIOTHERAPIST, MIDWIFE OR HEALTH VISITOR

Age	Amount appropriate in respect of each £100 of remuneration	Age	Amount appropriate in respect of each £100 of remuneration
	£ s.		£ s.
Under 20 ...	6 7	42 and under 43	9 13
20 and under 21	6 14	43 ,, ,, 44	9 16
21 ,, ,, 22	7 1	44 ,, ,, 45	9 19
22 ,, ,, 23	7 8		
23 ,, ,, 24	7 14	45 ,, ,, 46	10 2
24 ,, ,, 25	8 0	46 ,, ,, 47	10 6
		47 ,, ,, 48	10 10
25 ,, ,, 26	8 6	48 ,, ,, 49	10 14
26 ,, ,, 27	8 11	49 ,, ,, 50	10 18
27 ,, ,, 28	8 16		
28 ,, ,, 29	9 0	50 ,, ,, 51	11 3
29 ,, ,, 30	9 4	51 ,, ,, 52	11 8
		52 ,, ,, 53	11 13
30 ,, ,, 31	9 7	53 ,, ,, 54	11 18
31 ,, ,, 32	9 9	54 ,, ,, 55	12 4
32 ,, ,, 33	9 10		
33 ,, ,, 34	9 10	55 ,, ,, 56	12 4
34 ,, ,, 35	9 10	56 ,, ,, 57	11 19
		57 ,, ,, 58	11 14
35 ,, ,, 36	9 10	58 ,, ,, 59	11 9
36 ,, ,, 37	9 10	59 ,, ,, 60	11 4
37 ,, ,, 38	9 10		
38 ,, ,, 39	9 10	60 and over ...	£10 19s. less six shillings for each completed year by which the officer's age exceeds sixty years.
39 ,, ,, 40	9 10		
40 ,, ,, 41	9 10		
41 ,, ,, 42	9 11		

TABLE III

Service as a Practitioner

Age	Amount appropriate in respect of each £100 of remuneration	Age	Amount appropriate in respect of each £100 of remuneration
	£ s.		£ s.
Under 25 ...	4 17	45 and under 46	7 15
25 and under 26	5 0	46 ,, ,, 47	7 18
26 ,, ,, 27	5 3	47 ,, ,, 48	8 1
27 ,, ,, 28	5 6	48 ,, ,, 49	8 5
28 ,, ,, 29	5 9	49 ,, ,, 50	8 9
29 ,, ,, 30	5 12	50 ,, ,, 51	8 13
30 ,, ,, 31	5 15	51 ,, ,, 52	8 17
31 ,, ,, 32	5 18	52 ,, ,, 53	9 2
32 ,, ,, 33	6 1	53 ,, ,, 54	9 7
33 ,, ,, 34	6 4	54 ,, ,, 55	9 12
34 ,, ,, 35	6 7	55 ,, ,, 56	9 17
35 ,, ,, 36	6 10	56 ,, ,, 57	10 3
36 ,, ,, 37	6 12	57 ,, ,, 58	10 9
37 ,, ,, 38	6 14	58 ,, ,, 59	10 15
38 ,, ,, 39	6 16	59 ,, ,, 60	11 2
39 ,, ,, 40	6 18		
40 ,, ,, 41	7 0	60 and over ...	£11 2s. less seven shillings for each completed year by which the person's age exceeds sixty years.
41 ,, ,, 42	7 3		
42 ,, ,, 43	7 6		
43 ,, ,, 44	7 9		
44 ,, ,, 45	7 12		

TABLE IV

SERVICE OF AN OFFICER WHOSE EMPLOYMENT IS BY WAY OF MANUAL LABOUR

Age (1)	Amount appropriate in respect of each £100 of remuneration	
	Men (2)	Women (3)
	£ s.	£ s.
Under 20	3 18	4 5
20 and under 21 ...	3 18	4 6
21 ,, ,, 22 ...	3 18	4 7
22 ,, ,, 23 ...	3 18	4 8
23 ,, ,, 24 ...	3 18	4 10
24 ,, ,, 25 ...	3 18	4 11
25 ,, ,, 26 ...	3 18	4 12
26 ,, ,, 27 ...	3 19	4 12
27 ,, ,, 28 ...	4 1	4 13
28 ,, ,, 29 ...	4 2	4 15
29 ,, ,, 30 ...	4 4	4 17
30 ,, ,, 31 ...	4 6	5 0
31 ,, ,, 32 ...	4 8	5 3
32 ,, ,, 33 ...	4 11	5 6
33 ,, ,, 34 ...	4 13	5 9
34 ,, ,, 35 ...	4 16	5 12
35 ,, ,, 36 ...	4 18	5 17
36 ,, ,, 37 ...	5 0	6 1
37 ,, ,, 38 ...	5 2	6 4
38 ,, ,, 39 ...	5 5	6 8
39 ,, ,, 40 ...	5 7	6 12
40 ,, ,, 41 ...	5 10	6 16
41 ,, ,, 42 ...	5 13	6 19
42 ,, ,, 43 ...	5 16	7 3
43 ,, ,, 44 ...	5 19	7 7
44 ,, ,, 45 ...	6 2	7 11
45 ,, ,, 46 ...	6 5	7 15
46 ,, ,, 47 ...	6 8	7 19
47 ,, ,, 48 ...	6 11	8 2
48 ,, ,, 49 ...	6 15	8 6
49 ,, ,, 50 ...	6 18	8 10
50 ,, ,, 51 ...	7 2	8 14
51 ,, ,, 52 ...	7 6	8 18
52 ,, ,, 53 ...	7 10	9 3
53 ,, ,, 54 ...	7 14	9 7
54 ,, ,, 55 ...	7 18	9 12
55 ,, ,, 56 ...	8 3	9 17
56 ,, ,, 57 ...	8 8	10 2
57 ,, ,, 58 ...	8 13	10 7
58 ,, ,, 59 ...	8 19	10 13
59 ,, ,, 60 ...	9 5	10 19
60 and over ...	9 5 less 6s. for each completed year by which the officer's age exceeds sixty.	10 19 less 6s. for each completed year by which the officer's age exceeds sixty.

TABLE V

REDUCTION OF SUM PAYABLE BY A PERSON TO WHOM REGULATION 30 (1) APPLIES

Age. (1)	Service of a male officer (including a practitioner) (2)	Service of a female officer (including a practitioner but excluding a female Officer mentioned in Column 4) (3)	Service of a female nurse (including Mental Health Officer) or Physiotherapist, Midwife or Health Visitor (4)
	£ s.	£ s.	£ s.
Under 20 ...	2 0	1 0	15
20 and under 21	2 1	1 2	17
21 ,, ,, 22	2 3	1 4	19
22 ,, ,, 23	2 5	1 7	1 2
23 ,, ,, 24	2 6	1 10	1 5
24 ,, ,, 25	2 8	1 13	1 9
25 ,, ,, 26	2 10	1 17	1 14
26 ,, ,, 27	2 12	2 2	2 1
27 ,, ,, 28	2 14	2 8	2 9
28 ,, ,, 29	2 16	2 15	2 17
29 ,, ,, 30	2 18	3 2	3 6
30 ,, ,, 31	3 0	3 9	3 17
31 ,, ,, 32	3 2	3 17	4 8
32 ,, ,, 33	3 4	4 5	4 19
33 ,, ,, 34	3 6	4 12	5 9
34 ,, ,, 35	3 9	5 0	5 19
35 ,, ,, 36	3 11	5 8	6 8
36 ,, ,, 37	3 13	5 15	6 15
37 ,, ,, 38	3 15	6 3	7 1
38 ,, ,, 39	3 17	6 11	7 7
39 ,, ,, 40	4 0	6 18	7 12
40 ,, ,, 41	4 2	7 5	7 17
41 ,, ,, 42	4 4	7 13	8 2
42 ,, ,, 43	4 7	8 0	8 6
43 ,, ,, 44	4 10	8 7	8 11
44 ,, ,, 45	4 13	8 13	8 16
45 ,, ,, 46	4 16	8 19	9 1
46 ,, ,, 47	4 19	9 5	9 6
47 ,, ,, 48	5 2	9 11	9 12
48 ,, ,, 49	5 5	9 17	9 18
49 ,, ,, 50	5 9	10 4	10 4
50 ,, ,, 51	5 13	10 11	10 10
51 ,, ,, 52	5 17	10 18[1]	10 16
52 ,, ,, 53	6 1	11 5	11 2
53 ,, ,, 54	6 5	11 12	11 9
54 ,, ,, 55	6 10	12 0	11 16
55 ,, ,, 56	6 15	12 8	12 4
56 ,, ,, 57	7 0	12 16	12 13
57 ,, ,, 58	7 6	13 5	13 2
58 ,, ,, 59	7 12	13 14	13 12
59 ,, ,, 60	7 18	14 3	14 2
60 ,, ,, 61	8 4	14 3	—
61 ,, ,, 62	8 11	14 3	—
62 ,, ,, 63	8 19	14 3	—
63 ,, ,, 64	9 8	14 3	—
64 and over ...	9 17	14 3	—

[1] Corrected from £10 8s. to £10 18s. by subsequent regulation, *vide*, p. 459.

Regulation 47 (2) (*b*). FIFTH SCHEDULE

ASCERTAINMENT OF LIABILITIES OF WHICH SUPERANNUATION FUNDS ARE RELIEVED ON THE APPOINTED DAY

A. *Superannuation Funds maintained under the Act of* 1937

1. The liability to be certified shall be such amount as is obtained by calculating in relation to such persons as are mentioned in regulation 47 (2) (*b*) the aggregate estimated capital values as at the appointed day of such proportion of all prospective superannuation allowances and returns of contributions in respect of which there was a contingent liability on the fund immediately before the appointed day as is attributable to service rendered before that day, and deducting therefrom the aggregate estimated capital values as at that day of any sums by way of additional contributory payments which would have been payable on and after the appointed day under the Act of 1937 by the said persons.

Amended, *vide* p. 460.

2. Any interest required to be calculated on any sum for the purposes of this schedule shall be calculated at the rate of three per cent. per annum.

B. *Superannuation Funds maintained under Local Act Schemes*

3. The foregoing provisions of this schedule shall apply, with any necessary modifications.

Regulation 47 (3), (4) & (5) SIXTH SCHEDULE

PROVISIONS FOR THE CALCULATION OF TRANSFER VALUES PAYABLE TO THE MINISTER IN RESPECT OF SERVICE UNDER THE ACT OF 1909, AND DIRECTIONS FOR THE USE OF THE SUBJOINED TABLES IN CONNEXION THEREWITH

PART I

1. The transfer value payable by any body under regulation 47 (3) or the appropriate authority in relation to that body in respect of any person shall be a sum ascertained from the subjoined Table I (*a*) or I (*b*), as the case may require, in accordance with the following provisions :—

(*a*) the amounts shown in columns (2) and (3) of the relative Table in relation to an age which corresponds with that of the person at the date on which he ceased to be a contributory employee or local Act contributor are to be multiplied respectively by the numbers of years, and of months aggregating less than one year, of service reckonable under the Act of 1909 which he had completed at the date on which he last ceased to be subject to that Act :

Provided that the total period of service taken into account shall not exceed forty years ;

(*b*) the sum of the two products aforesaid is an amount appropriate in respect of each one hundred pounds of the annual average of the salary or wages and emoluments of a person calculated

in accordance with the provisions of section 16 of the Act of 1909 ; and

(*c*) a total amount is to be calculated proportionately in accordance with the provisions of section 16 of the Act of 1909 by reference to the annual average of the person's salary or wages and emoluments at the date on which he last ceased to be subject to that Act :

Provided that the transfer value shall be reduced by the amount of any transfer value payable under the next succeeding paragraph.

PART II

2. The transfer value payable under regulation 47 (4) by any such other body as is therein mentioned or the appropriate authority in relation to that body in respect of the service of a person under that body shall be a sum ascertained from the subjoined Table I (*a*) or I (*b*), as the case may require, in accordance with the following provisions :—

(*a*) the amounts shown in columns (2) and (3) of the relative Table in relation to an age which corresponds with that of the person at the date on which he ceased to be a contributory employee or local Act contributor are to be multiplied respectively by the numbers of years, and of months aggregating less than one year, of all the person's service reckonable under the Act of 1909 which he had completed under that body when he last ceased to be in their employment :

Provided that the total period of service taken into account shall not exceed forty years ;

(*b*) the sum of the two products aforesaid is an amount appropriate in respect of each one hundred pounds of the annual average of the salary or wages and emoluments of a person calculated in accordance with the provisions of section 16 of the Act of 1909 ; and

(*c*) a total amount is to be calculated proportionately in accordance with the provisions of section 16 of the Act of 1909 by reference to the annual average of the person's salary or wages and emoluments at the date on which he last ceased to be in the employment of that body.

PART III

3. The transfer value payable under regulation 47 (5) in respect of any person by the body by whom the person was last employed under the Act of 1909 or the appropriate authority in relation to that body shall be a sum ascertained in accordance with the following provisions :—

(*a*) such one of the subjoined Tables as is appropriate shall be used on the basis that Tables II (*a*) and II (*b*) relate to persons who when they last ceased to be subject to the Act of 1909 were officers of the first class, Tables III (*a*) and III (*b*) relate to persons who at the date aforesaid were officers of the second class, Tables IV (*a*) and IV (*b*) relate to persons who at the date aforesaid were servants of the first class and Tables V (*a*) and V (*b*) relate to persons who at the date aforesaid were servants of the second class ;

(*b*) the amounts shown in columns (2) and (3) of the relative Table in relation to an age which corresponds with that of the person at the date on which he last ceased to be subject to the Act of 1909 are to be multiplied respectively by the numbers of years, and of months aggregating less than one year, of service reckonable under the Act of 1909 which he had completed at the date on which he last ceased to be subject to that Act :

Provided that the total period of service taken into account shall not exceed thirty-three years and four months in respect of a person who was an officer or servant of the first class, and forty years in respect of a person who was an officer or servant of the second class ;

(*c*) the sum of the two products aforesaid is an amount appropriate in respect of each one hundred pounds of annual salary or wages and emoluments ; and

(*d*) a total amount is to be calculated proportionately by reference to the annual amount of the person's salary or wages and emoluments at the date on which he last ceased to be subject to the Act of 1909 :

Provided that—

(i) if the service completed at the date on which the person last ceased to be subject to the Act of 1909 is less than four years, the transfer value shall be a sum equal to the amount of the person's contributions under that Act which were made to the body by or in relation to whom the transfer value is payable ;

(ii) except where proviso (i) applies, the transfer value shall be reduced by the amount of any transfer value payable under the next succeeding paragraph ; and

(iii) the transfer value shall also be reduced by an amount equal to any sum which, when the person ceased to hold the employment in relation to which the transfer value is payable, was paid to him by way of a return of contributions, and by a further amount equal to any income tax which was deducted from his contributions in respect of such payment.

4. The transfer value payable under regulation 47 (5) by any such body as is therein mentioned who would have been liable to contribute to a superannuation allowance in the circumstances therein mentioned or the appropriate authority in relation to that body in respect of the service of a person under that body shall be a sum ascertained in accordance with the following provisions :—

(*a*) such one of the subjoined Tables as is appropriate shall be used on the basis that Tables II (*a*) and II (*b*) relate to persons who when they last ceased to be subject to the Act of 1909 were officers of the first class, Tables III (*a*) and III (*b*) relate to persons who at the date aforesaid were officers of the second class, Tables IV (*a*) and IV (*b*) relate to persons who at the date aforesaid were servants of the first class and Tables V (*a*) and V (*b*) relate to persons who at the date aforesaid were servants of the second class ;

(*b*) the amounts shown in columns (2) and (3) of the relative

Table in relation to an age which corresponds with that of the person at the date on which he last ceased to be subject to the Act of 1909 are to be multiplied respectively by the numbers of years, and of months aggregating less than one year, of all the person's service reckonable under the Act of 1909 which he had completed under that body at the date on which he last ceased to be in their employment :

Provided that the total period of service taken into account shall not exceed thirty-three years and four months in respect of a person who was an officer or servant of the first class in his last employment under the Act of 1909, and forty years in respect of a person who in that employment was an officer or servant of the second class ;

(*c*) the sum of the two products aforesaid is an amount appropriate in respect of each one hundred pounds of annual salary or wages and emoluments ; and

(*d*) a total amount is to be calculated proportionately by reference to the annual amount of the person's salary or wages and emoluments at the date on which he last ceased to be in the employment of that body :

Provided that if the whole of the person's service reckonable under the Act of 1909, whether under that body or any other body, is less than four years, the transfer value shall be a sum equal to the amount of the person's contributions under that Act which were made to that body.

TABLE I

(*a*) MEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual average salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	6 7	11
21 ,, ,, 22 ...	6 11	11
22 ,, ,, 23 ...	6 15	11
23 ,, ,, 24 ...	7 0	12
24 ,, ,, 25 ...	7 5	12
25 ,, ,, 26 ...	7 10	12
26 ,, ,, 27 ...	7 15	13
27 ,, ,, 28 ...	8 0	13
28 ,, ,, 29 ...	8 5	14
29 ,, ,, 30 ...	8 10	14
30 ,, ,, 31 ...	8 15	15
31 ,, ,, 32 ...	9 0	15
32 ,, ,, 33 ...	9 5	15
33 ,, ,, 34 ...	9 10	16
34 ,, ,, 35 ...	9 15	16
35 ,, ,, 36 ...	10 0	17
36 ,, ,, 37 ...	10 5	17
37 ,, ,, 38 ...	10 10	18
38 ,, ,, 39 ...	10 16	18
39 ,, ,, 40 ...	11 2	18
40 ,, ,, 41 ...	11 8	19
41 ,, ,, 42 ...	11 14	1 0
42 ,, ,, 43 ...	12 0	1 0
43 ,, ,, 44 ...	12 6	1 0
44 ,, ,, 45 ...	12 13	1 1
45 ,, ,, 46 ...	13 0	1 2
46 ,, ,, 47 ...	13 7	1 2
47 ,, ,, 48 ...	13 15	1 3
48 ,, ,, 49 ...	14 3	1 4
49 ,, ,, 50 ...	14 9	1 4
50 ,, ,, 51 ...	14 14	1 4
51 ,, ,, 52 ...	14 18	1 5
52 ,, ,, 53 ...	15 2	1 5
53 ,, ,, 54 ...	15 5	1 5
54 ,, ,, 55 ...	15 9	1 6
55 ,, ,, 56 ...	15 12	1 6
56 ,, ,, 57 ...	15 16	1 6
57 ,, ,, 58 ...	15 19	1 7
58 ,, ,, 59 ...	16 3	1 7
59 ,, ,, 60 ...	16 7	1 7
60 ,, ,, 61 ...	16 10	1 8
61 ,, ,, 62 ...	16 12	1 8
62 ,, ,, 63 ...	16 14	1 8
63 ,, ,, 64 ...	16 15	1 8
64 and over ...	16 16	1 8

(*b*) WOMEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual average salary or wages and emoluments in relation to each of the following completed periods of service, namely:—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	4 1	7
21 ,, ,, 22 ...	4 4	7
22 ,, ,, 23 ...	4 8	7
23 ,, ,, 24 ...	4 13	8
24 ,, ,, 25 ...	4 18	8
25 ,, ,, 26 ...	5 5	9
26 ,, ,, 27 ...	5 13	9
27 ,, ,, 28 ...	6 2	10
28 ,, ,, 29 ...	6 12	11
29 ,, ,, 30 ...	7 3	12
30 ,, ,, 31 ...	7 14	13
31 ,, ,, 32 ...	8 6	14
32 ,, ,, 33 ...	8 18	15
33 ,, ,, 34 ...	9 11	16
34 ,, ,, 35 ...	10 4	17
35 ,, ,, 36 ...	10 17	18
36 ,, ,, 37 ...	11 9	19
37 ,, ,, 38 ...	12 1	1 0
38 ,, ,, 39 ...	12 13	1 1
39 ,, ,, 40 ...	13 4	1 2
40 ,, ,, 41 ...	13 15	1 3
41 ,, ,, 42 ...	14 6	1 4
42 ,, ,, 43 ...	14 16	1 5
43 ,, ,, 44 ...	15 6	1 6
44 ,, ,, 45 ...	15 16	1 6
45 ,, ,, 46 ...	16 5	1 7
46 ,, ,, 47 ...	16 12	1 8
47 ,, ,, 48 ...	16 17	1 8
48 ,, ,, 49 ...	17 2	1 8
49 ,, ,, 50 ...	17 6	1 9
50 ,, ,, 51 ...	17 10	1 9
51 ,, ,, 52 ...	17 14	1 10
52 ,, ,, 53 ...	17 19	1 10
53 ,, ,, 54 ...	18 3	1 10
54 ,, ,, 55 ...	18 7	1 11
55 ,, ,, 56 ...	18 11	1 11
56 ,, ,, 57 ...	18 15	1 11
57 ,, ,, 58 ...	19 0	1 12
58 ,, ,, 59 ...	19 4	1 12
59 ,, ,, 60 ...	19 8	1 12
60 ,, ,, 61 ...	19 12	1 13
61 ,, ,, 62 ...	19 15	1 13
62 ,, ,, 63 ...	19 17	1 13
63 ,, ,, 64 ...	19 19	1 13
64 and over ...	20 1	1 13

TABLE II

(*a*) MEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	10 4	17
21 ,, ,, 22 ...	10 15	18
22 ,, ,, 23 ...	11 6	19
23 ,, ,, 24 ...	11 18	1 0
24 ,, ,, 25 ...	12 10	1 1
25 ,, ,, 26 ...	13 2	1 2
26 ,, ,, 27 ...	13 13	1 3
27 ,, ,, 28 ...	14 3	1 4
28 ,, ,, 29 ...	14 13	1 4
29 ,, ,, 30 ...	15 3	1 5
30 ,, ,, 31 ...	15 12	1 6
31 ,, ,, 32 ...	16 0	1 7
32 ,, ,, 33 ...	16 6	1 7
33 ,, ,, 34 ...	16 10	1 8
34 ,, ,, 35 ...	16 12	1 8
35 ,, ,, 36 ...	16 15	1 8
36 ,, ,, 37 ...	16 17	1 8
37 ,, ,, 38 ...	16 19	1 8
38 ,, ,, 39 ...	17 2	1 8
39 ,, ,, 40 ...	17 5	1 9
40 ,, ,, 41 ...	17 7	1 9
41 ,, ,, 42 ...	17 10	1 9
42 ,, ,, 43 ...	17 14	1 10
43 ,, ,, 44 ...	17 18	1 10
44 ,, ,, 45 ...	18 2	1 10
45 ,, ,, 46 ...	18 6	1 10
46 ,, ,, 47 ...	18 10	1 11
47 ,, ,, 48 ...	18 15	1 11
48 ,, ,, 49 ...	19 0	1 12
49 ,, ,, 50 ...	19 6	1 12
50 ,, ,, 51 ...	19 11	1 13
51 ,, ,, 52 ...	19 15	1 13
52 ,, ,, 53 ...	19 18	1 13
53 ,, ,, 54 ...	20 0	1 13
54 ,, ,, 55 ...	20 1	1 13
55 ,, ,, 56 ...	20 2	1 14
56 ,, ,, 57 ...	20 2	1 14
57 ,, ,, 58 ...	20 2	1 14
58 ,, ,, 59 ...	20 2	1 14
59 ,, ,, 60 ...	20 2	1 14
60 and over ...	20 3	1 14

(*b*) WOMEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	3 12	6
21 ,, ,, 22 ...	4 0	7
22 ,, ,, 23 ...	4 9	7
23 ,, ,, 24 ...	4 19	8
24 ,, ,, 25 ...	5 11	9
25 ,, ,, 26 ...	6 5	10
26 ,, ,, 27 ...	7 1	12
27 ,, ,, 28 ...	8 0	13
28 ,, ,, 29 ...	9 2	15
29 ,, ,, 30 ...	10 6	17
30 ,, ,, 31 ...	11 10	19
31 ,, ,, 32 ...	12 13	1 1
32 ,, ,, 33 ...	13 14	1 3
33 ,, ,, 34 ...	14 14	1 4
34 ,, ,, 35 ...	15 13	1 6
35 ,, ,, 36 ...	16 11	1 8
36 ,, ,, 37 ...	17 8	1 9
37 ,, ,, 38 ...	18 3	1 10
38 ,, ,, 39 ...	18 16	1 11
39 ,, ,, 40 ...	19 8	1 12
40 ,, ,, 41 ...	20 0	1 13
41 ,, ,, 42 ...	20 12	1 14
42 ,, ,, 43 ...	21 4	1 15
43 ,, ,, 44 ...	21 16	1 16
44 ,, ,, 45 ...	22 8	1 17
45 ,, ,, 46 ...	22 18	1 18
46 ,, ,, 47 ...	23 6	1 19
47 ,, ,, 48 ...	23 11	1 19
48 ,, ,, 49 ...	23 14	2 0
49 ,, ,, 50 ...	23 16	2 0
50 ,, ,, 51 ...	23 17	2 0
51 ,, ,, 52 ...	23 18	2 0
52 ,, ,, 53 ...	23 19	2 0
53 ,, ,, 54 ...	23 19	2 0
54 ,, ,, 55 ...	24 0	2 0
55 ,, ,, 56 ...	24 0	2 0
56 ,, ,, 57 ...	24 0	2 0
57 ,, ,, 58 ...	24 0	2 0
58 and over ...	24 1	2 0

TABLE III

(*a*) MEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	8 12	14
21 ,, ,, 22 ...	8 12	14
22 ,, ,, 23 ...	8 12	14
23 ,, ,, 24 ...	8 12	14
24 ,, ,, 25 ...	8 13	14
25 ,, ,, 26 ...	8 14	14
26 ,, ,, 27 ...	8 15	15
27 ,, ,, 28 ...	8 17	15
28 ,, ,, 29 ...	8 19	15
29 ,, ,, 30 ...	9 1	15
30 ,, ,, 31 ...	9 3	15
31 ,, ,, 32 ...	9 5	15
32 ,, ,, 33 ...	9 7	16
33 ,, ,, 34 ...	9 9	16
34 ,, ,, 35 ...	9 12	16
35 ,, ,, 36 ...	9 15	16
36 ,, ,, 37 ...	9 18	16
37 ,, ,, 38 ...	10 1	17
38 ,, ,, 39 ...	10 3	17
39 ,, ,, 40 ...	10 5	17
40 ,, ,, 41 ...	10 7	17
41 ,, ,, 42 ...	10 9	17
42 ,, ,, 43 ...	10 12	18
43 ,, ,, 44 ...	10 16	18
44 ,, ,, 45 ...	11 0	18
45 ,, ,, 46 ...	11 4	19
46 ,, ,, 47 ...	11 8	19
47 ,, ,, 48 ...	11 13	19
48 ,, ,, 49 ...	11 18	1 0
49 ,, ,, 50 ...	12 3	1 0
50 ,, ,, 51 ...	12 9	1 1
51 ,, ,, 52 ...	12 15	1 1
52 ,, ,, 53 ...	13 1	1 2
53 ,, ,, 54 ...	13 7	1 2
54 ,, ,, 55 ...	13 14	1 3
55 ,, ,, 56 ...	14 2	1 4
56 ,, ,, 57 ...	14 9	1 4
57 ,, ,, 58 ...	14 17	1 5
58 ,, ,, 59 ...	15 6	1 6
59 ,, ,, 60 ...	15 15	1 6
60 ,, ,, 61 ...	16 2	1 7
61 ,, ,, 62 ...	16 7	1 7
62 ,, ,, 63 ...	16 11	1 8
63 ,, ,, 64 ...	16 14	1 8
64 and over ...	16 16	1 8

(*b*) WOMEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	2 11	4
21 ,, ,, 22 ...	2 17	5
22 ,, ,, 23 ...	3 3	5
23 ,, ,, 24 ...	3 10	6
24 ,, ,, 25 ...	3 17	6
25 ,, ,, 26 ...	4 6	7
26 ,, ,, 27 ...	4 16	8
27 ,, ,, 28 ...	5 8	9
28 ,, ,, 29 ...	6 2	10
29 ,, ,, 30 ...	6 17	11
30 ,, ,, 31 ...	7 11	13
31 ,, ,, 32 ...	8 4	14
32 ,, ,, 33 ...	8 16	15
33 ,, ,, 34 ...	9 8	16
34 ,, ,, 35 ...	9 19	17
35 ,, ,, 36 ...	10 9	17
36 ,, ,, 37 ...	10 18	18
37 ,, ,, 38 ...	11 6	19
38 ,, ,, 39 ...	11 14	1 0
39 ,, ,, 40 ...	12 2	1 0
40 ,, ,, 41 ...	12 10	1 1
41 ,, ,, 42 ...	12 19	1 2
42 ,, ,, 43 ...	13 8	1 2
43 ,, ,, 44 ...	13 17	1 3
44 ,, ,, 45 ...	14 5	1 4
45 ,, ,, 46 ...	14 13	1 4
46 ,, ,, 47 ...	15 0	1 5
47 ,, ,, 48 ...	15 6	1 6
48 ,, ,, 49 ...	15 12	1 6
49 ,, ,, 50 ...	15 18	1 6
50 ,, ,, 51 ...	16 4	1 7
51 ,, ,, 52 ...	16 10	1 8
52 ,, ,, 53 ...	16 16	1 8
53 ,, ,, 54 ...	17 3	1 9
54 ,, ,, 55 ...	17 9	1 9
55 ,, ,, 56 ...	17 15	1 10
56 ,, ,, 57 ...	18 2	1 10
57 ,, ,, 58 ...	18 8	1 11
58 ,, ,, 59 ...	18 15	1 11
59 ,, ,, 60 ...	19 1	1 12
60 ,, ,, 61 ...	19 6	1 12
61 ,, ,, 62 ...	19 11	1 13
62 ,, ,, 63 ...	19 15	1 13
63 ,, ,, 64 ...	19 18	1 13
64 and over ...	20 1	1 13

TABLE IV

(*a*) MEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	5 7	9
21 ,, ,, 22 ...	5 14	10
22 ,, ,, 23 ...	6 1	10
23 ,, ,, 24 ...	6 8	11
24 ,, ,, 25 ...	6 15	11
25 ,, ,, 26 ...	7 3	12
26 ,, ,, 27 ...	7 12	13
27 ,, ,, 28 ...	8 1	13
28 ,, ,, 29 ...	8 11	14
29 ,, ,, 30 ...	9 1	15
30 ,, ,, 31 ...	9 11	16
31 ,, ,, 32 ...	10 1	17
32 ,, ,, 33 ...	10 12	18
33 ,, ,, 34 ...	11 2	18
34 ,, ,, 35 ...	11 12	19
35 ,, ,, 36 ...	12 2	1 0
36 ,, ,, 37 ...	12 12	1 1
37 ,, ,, 38 ...	13 2	1 2
38 ,, ,, 39 ...	13 11	1 3
39 ,, ,, 40 ...	13 19	1 3
40 ,, ,, 41 ...	14 7	1 4
41 ,, ,, 42 ...	14 14	1 4
42 ,, ,, 43 ...	15 1	1 5
43 ,, ,, 44 ...	15 7	1 6
44 ,, ,, 45 ...	15 14	1 6
45 ,, ,, 46 ...	16 1	1 7
46 ,, ,, 47 ...	16 9	1 7
47 ,, ,, 48 ...	16 17	1 8
48 ,, ,, 49 ...	17 6	1 9
49 ,, ,, 50 ...	17 15	1 10
50 ,, ,, 51 ...	18 3	1 10
51 ,, ,, 52 ...	18 8	1 11
52 ,, ,, 53 ...	18 12	1 11
53 ,, ,, 54 ...	18 16	1 11
54 ,, ,, 55 ...	18 19	1 12
55 ,, ,, 56 ...	19 2	1 12
56 ,, ,, 57 ...	19 5	1 12
57 ,, ,, 58 ...	19 8	1 12
58 ,, ,, 59 ...	19 11	1 13
59 ,, ,, 60 ...	19 14	1 13
60 ,, ,, 61 ...	19 17	1 13
61 ,, ,, 62 ...	19 19	1 13
62 ,, ,, 63 ...	20 1	1 13
63 ,, ,, 64 ...	20 2	1 14
64 and over ...	20 3	1 14

(*b*) WOMEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	2 4	4
21 ,, ,, 22 ...	2 12	4
22 ,, ,, 23 ...	3 0	5
23 ,, ,, 24 ...	3 8	6
24 ,, ,, 25 ...	3 16	6
25 ,, ,, 26 ...	4 5	7
26 ,, ,, 27 ...	4 16	8
27 ,, ,, 28 ...	5 10	9
28 ,, ,, 29 ...	6 5	10
29 ,, ,, 30 ...	7 1	12
30 ,, ,, 31 ...	7 17	13
31 ,, ,, 32 ...	8 14	14
32 ,, ,, 33 ...	9 10	16
33 ,, ,, 34 ...	10 6	17
34 ,, ,, 35 ...	11 2	18
35 ,, ,, 36 ...	11 18	1 0
36 ,, ,, 37 ...	12 14	1 1
37 ,, ,, 38 ...	13 10	1 2
38 ,, ,, 39 ...	14 6	1 4
39 ,, ,, 40 ...	15 2	1 5
40 ,, ,, 41 ...	15 17	1 6
41 ,, ,, 42 ...	16 11	1 8
42 ,, ,, 43 ...	17 4	1 9
43 ,, ,, 44 ...	17 17	1 10
44 ,, ,, 45 ...	18 9	1 11
45 ,, ,, 46 ...	19 0	1 12
46 ,, ,, 47 ...	19 9	1 12
47 ,, ,, 48 ...	19 16	1 13
48 ,, ,, 49 ...	20 2	1 14
49 ,, ,, 50 ...	20 7	1 14
50 ,, ,, 51 ...	20 13	1 14
51 ,, ,, 52 ...	20 18	1 15
52 ,, ,, 53 ...	21 4	1 15
53 ,, ,, 54 ...	21 10	1 16
54 ,, ,, 55 ...	21 16	1 16
55 ,, ,, 56 ...	22 1	1 17
56 ,, ,, 57 ...	22 7	1 17
57 ,, ,, 58 ...	22 12	1 18
58 ,, ,, 59 ...	22 18	1 18
59 ,, ,, 60 ...	23 3	1 19
60 ,, ,, 61 ...	23 8	1 19
61 ,, ,, 62 ...	23 12	1 19
62 ,, ,, 63 ...	23 16	2 0
63 ,, ,, 64 ...	23 19	2 0
64 and over ...	24 1	2 0

TABLE V

(*a*) MEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely :—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	3 13	6
21 ,, ,, 22 ...	3 17	6
22 ,, ,, 23 ...	4 1	7
23 ,, ,, 24 ...	4 6	7
24 ,, ,, 25 ...	4 11	8
25 ,, ,, 26 ...	4 16	8
26 ,, ,, 27 ...	5 2	8
27 ,, ,, 28 ...	5 8	9
28 ,, ,, 29 ...	5 14	10
29 ,, ,, 30 ...	6 0	10
30 ,, ,, 31 ...	6 7	11
31 ,, ,, 32 ...	6 14	11
32 ,, ,, 33 ...	7 1	12
33 ,, ,, 34 ...	7 8	12
34 ,, ,, 35 ...	7 15	13
35 ,, ,, 36 ...	8 2	14
36 ,, ,, 37 ...	8 8	14
37 ,, ,, 38 ...	8 14	14
38 ,, ,, 39 ...	9 0	15
39 ,, ,, 40 ...	9 6	16
40 ,, ,, 41 ...	9 11	16
41 ,, ,, 42 ...	9 16	16
42 ,, ,, 43 ...	10 0	17
43 ,, ,, 44 ...	10 4	17
44 ,, ,, 45 ...	10 8	17
45 ,, ,, 46 ...	10 13	18
46 ,, ,, 47 ...	10 18	18
47 ,, ,, 48 ...	11 3	19
48 ,, ,, 49 ...	11 9	19
49 ,, ,, 50 ...	11 15	1 0
50 ,, ,, 51 ...	12 1	1 0
51 ,, ,, 52 ...	12 8	1 1
52 ,, ,, 53 ...	12 15	1 1
53 ,, ,, 54 ...	13 2	1 2
54 ,, ,, 55 ...	13 9	1 2
55 ,, ,, 56 ...	13 17	1 3
56 ,, ,, 57 ...	14 5	1 4
57 ,, ,, 58 ...	14 14	1 4
58 ,, ,, 59 ...	15 3	1 5
59 ,, ,, 60 ...	15 13	1 6
60 ,, ,, 61 ...	16 0	1 7
61 ,, ,, 62 ...	16 6	1 7
62 ,, ,, 63 ...	16 11	1 8
63 ,, ,, 64 ...	16 14	1 8
64 and over ...	16 16	1 8

(*b*) WOMEN

Age (1)	Amount of transfer value appropriate in respect of each £100 of annual salary or wages and emoluments in relation to each of the following completed periods of service, namely:—	
	Year (2)	Month (3)
	£ s.	£ s.
20 and under 21 ...	1 15	3
21 ,, ,, 22 ...	2 1	3
22 ,, ,, 23 ...	2 7	4
23 ,, ,, 24 ...	2 12	4
24 ,, ,, 25 ...	2 17	5
25 ,, ,, 26 ...	3 3	5
26 ,, ,, 27 ...	3 10	6
27 ,, ,, 28 ...	3 19	7
28 ,, ,, 29 ...	4 9	7
29 ,, ,, 30 ...	4 19	8
30 ,, ,, 31 ...	5 9	9
31 ,, ,, 32 ...	5 19	10
32 ,, ,, 33 ...	6 9	11
33 ,, ,, 34 ...	6 19	12
34 ,, ,, 35 ...	7 9	12
35 ,, ,, 36 ...	8 0	13
36 ,, ,, 37 ...	8 11	14
37 ,, ,, 38 ...	9 1	15
38 ,, ,, 39 ...	9 12	16
39 ,, ,, 40 ...	10 3	17
40 ,, ,, 41 ...	10 13	18
41 ,, ,, 42 ...	11 3	19
42 ,, ,, 43 ...	11 12	19
43 ,, ,, 44 ...	12 1	1 0
44 ,, ,, 45 ...	12 10	1 1
45 ,, ,, 46 ...	12 18	1 2
46 ,, ,, 47 ...	13 5	1 2
47 ,, ,, 48 ...	13 12	1 3
48 ,, ,, 49 ...	13 19	1 3
49 ,, ,, 50 ...	14 7	1 4
50 ,, ,, 51 ...	14 14	1 4
51 ,, ,, 52 ...	15 2	1 5
52 ,, ,, 53 ...	15 11	1 6
53 ,, ,, 54 ...	16 0	1 7
54 ,, ,, 55 ...	16 9	1 7
55 ,, ,, 56 ...	16 17	1 8
56 ,, ,, 57 ...	17 6	1 9
57 ,, ,, 58 ...	17 15	1 10
58 ,, ,, 59 ...	18 4	1 10
59 ,, ,, 60 ...	18 12	1 11
60 ,, ,, 61 ...	19 0	1 12
61 ,, ,, 62 ...	19 7	1 12
62 ,, ,, 63 ...	19 13	1 13
63 ,, ,, 64 ...	19 18	1 13
64 and over ...	20 1	1 13

Regulation 49. SEVENTH SCHEDULE

PROVISIONS FOR THE CALCULATION OF TRANSFER VALUES PAYABLE BY THE MINISTER, AND DIRECTIONS FOR THE USE OF THE SUBJOINED TABLES IN CONNEXION THEREWITH

1. In this schedule, the following expressions, unless the context otherwise requires, have the meanings hereby assigned to them—

" the material date " in relation to any person in respect of whom a transfer value is being calculated means the date upon which he ceased to hold his employment under the employing authority ;

" remuneration " in relation to any person, other than a practitioner, means the annual remuneration of his employment under the employing authority on which contributions were payable by him on the material date, and in relation to a practitioner means the annual average of his remuneration in respect of all periods of service as a practitioner :

Provided that—

(*a*) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person, other than a practitioner, in respect of any employment, the amount thereof shall be taken to be the annual average of the fees payable to him in respect of that employment during the three years immediately preceding the material date or, if that employment was of shorter duration, such shorter period ;

(*b*) references in the foregoing definition to contributions payable by any person shall include references to contributions which would have been payable by him but for any reduction in or suspension of his remuneration by reason of his absence from duty owing to ill-health or injury ;

(*c*) in the case of a person who has ceased to hold a single employment under an employing authority and has entered two or more part-time employments in which he is an officer of the same or any other employing authority, a contributory employee or local Act contributor, the expression " remuneration " shall, in relation to each part-time employment, be construed as meaning such proportion of the person's remuneration on the material date as the annual remuneration or emoluments of that part-time employment bears to the aggregate amount of the annual remuneration or emoluments of the part-time employments ;

" service " in relation to a person who in the employment he has ceased to hold was in the whole-time employment of a single employing authority means, in respect of any period of previous part-time employment, whole-time service for a proportionately reduced period ; and

" contributing service " in relation to any period of service in respect of which a person was in the course of making but had not completed making additional contributory payments shall, if that person in the employment he has entered is a local Act contributor, be construed as meaning service of one-half the actual length of that period of service.

2. The transfer value payable in respect of any person shall be the

aggregate of the sums respectively calculated in accordance with the provisions of paragraphs 4, 5 and 6 of this schedule :

Provided that—

(*a*) in the case of a person, not being a practitioner, whose service includes service in that capacity, separate transfer values shall be calculated in respect of his service in the two capacities, by reference to his remuneration as such person and his remuneration as a practitioner respectively ;

(*b*) in the case of a practitioner whose service includes service otherwise than in that capacity, separate transfer values shall be calculated in respect of his service in the two capacities, as if in relation to his service otherwise than in the capacity of a practitioner the material date for the purpose of ascertaining his remuneration was the date on which he ceased to hold his last employment before becoming a practitioner, and his remuneration was the annual remuneration of the employment on which contributions were payable by him on that date, or, if in that employment he was not an officer of an employing authority, the annual emoluments of that employment ;

(*c*) in the case of a person whose contributing service, together with his non-contributing service (if any) reckoned at half its actual length, exceeds forty years, the calculation required to be made by reference to his contributing service and non-contributing service shall be made by reference to forty years contributing service, and if he is such a person as is mentioned in proviso (*a*) or (*b*) to this paragraph, his service as a practitioner and his service in any other capacity shall be reduced proportionately to their actual lengths, any non-contributing service being reckoned at half its actual length ;

(*d*) the transfer value payable shall be reduced by—

(i) an amount equal to any sum which, when the person ceased to hold the employment in relation to which the transfer value is payable, was paid to him by way of a return of contributions, and by a further amount equal to any income tax which was deducted from his contributions in respect of such payment ; and

(ii) an amount equal to the balance of any debt the right to receive which, pursuant to the provisions of the fourth schedule to these regulations, is deemed to be transferred to the local authority whose employment the person has entered ; and

(*e*) if in relation to the employment which the person has ceased to hold he was in the course of making but had not completed making additional contributory payments, and if in the employment he has entered he is a local Act contributor, the transfer value shall be increased by an amount equal to the aggregate amount of the additional contributory payments so made, except to the extent that such amount may have been returned to the person or any sum may have been deducted on account of income tax from such amount in respect of such return.

3. If after a transfer value has been paid in respect of a person who has become a contributory employee or local Act contributor

in the part-time employment of a local authority, that person, within twelve months after the material date, or in the case of a person who ceased to hold his former employment in order to undertake national service, within six months after the termination of that service, while retaining that part-time employment enters other part-time employment in which he is an officer of an employing authority, a contributory employee or local Act contributor, he shall be treated for the purposes of this schedule as if he had simultaneously become such an officer, employee or contributor in each of such part-time employments, and the transfer value already paid shall be adjusted accordingly.

4.—(1) The sum to be calculated by reference to a person's contributing service shall be ascertained in accordance with the provisions of this paragraph.

(2) The amount shown in column (2) of the relative Table set out below in relation to an age which corresponds with that of the person at the material date is to be multiplied by the number of years of contributing service completed on the material date.

(3) The product aforesaid is an amount appropriate in respect of one hundred pounds of remuneration.

(4) A total amount is to be calculated proportionately by reference to the person's remuneration.

5.—(1) The sum to be calculated by reference to a person's non-contributing service shall be ascertained in accordance with the provisions of this paragraph.

(2) The amount shown in column (3) of the relative Table set out below in relation to an age which corresponds with that of the person at the material date is to be multiplied by the number of years of non-contributing service completed on the material date.

(3) The product aforesaid is an amount appropriate in respect of one hundred pounds of remuneration.

(4) A total amount is to be calculated proportionately by reference to the person's remuneration.

6. In the case of a person to whom paragraph (2) of regulation 30 applied immediately before the material date, any sum calculated under paragraph 4 or 5 of this schedule in respect of any period of service of which account would have been taken under paragraph (3) of regulation 30 in calculating the amount of the reduction of any pension to which the person might have become entitled under these regulations shall be reduced by the sum shown in the appropriate column of Table V set out in the fourth schedule to these regulations in relation to an age which corresponds with that of the person at the material date, in respect of each one pound of the amount of the reduction of the pension as aforesaid in respect of that period of service, and by a proportionate sum in respect of any fraction of a pound included in the said amount.

TABLE I

(*a*) SERVICE OF A MALE OFFICER, NOT BEING AN OFFICER MENTIONED IN TABLE IV (OTHER THAN SERVICE AS A PRACTITIONER)

Age (1)	Amount of transfer value appropriate in respect of each £100 of remuneration in relation to each completed year of service, namely :—	
	Contributing Service (2)	Non-contributing Service (3)
	£ s.	£ s.
Under 30	11 3	5 11
30 and under 31 ...	11 5	5 12
31 ,, ,, 32 ...	11 7	5 13
32 ,, ,, 33 ...	11 9	5 14
33 ,, ,, 34 ...	11 11	5 15
34 ,, ,, 35 ...	11 13	5 16
35 ,, ,, 36 ...	11 15	5 17
36 ,, ,, 37 ...	11 17	5 18
37 ,, ,, 38 ...	11 19	5 19
38 ,, ,, 39 ...	12 1	6 0
39 ,, ,, 40 ...	12 4	6 2
40 ,, ,, 41 ...	12 7	6 3
41 ,, ,, 42 ...	12 10	6 5
42 ,, ,, 43 ...	12 14	6 7
43 ,, ,, 44 ...	12 18	6 9
44 ,, ,, 45 ...	13 2	6 11
45 ,, ,, 46 ...	13 6	6 13
46 ,, ,, 47 ...	13 10	6 15
47 ,, ,, 48 ...	13 14	6 17
48 ,, ,, 49 ...	13 19	6 19
49 ,, ,, 50 ...	14 4	7 2
50 ,, ,, 51 ...	14 8	7 4
51 ,, ,, 52 ...	14 11	7 5
52 ,, ,, 53 ...	14 13	7 6
53 ,, ,, 54 ...	14 15	7 7
54 ,, ,, 55 ...	14 18	7 9
55 ,, ,, 56 ...	15 1	7 10
56 ,, ,, 57 ...	15 4	7 12
57 ,, ,, 58 ...	15 7	7 13
58 ,, ,, 59 ...	15 10	7 15
59 ,, ,, 60 ...	15 13	7 16
60 and over ...	15 14	7 17

(*b*) SERVICE OF A FEMALE OFFICER, NOT BEING A FEMALE OFFICER MENTIONED IN TABLE II OR IV (OTHER THAN SERVICE AS A PRACTITIONER)

Age (1)	Amount of transfer value appropriate in respect of each £100 of remuneration in relation to each completed year of service namely :—	
	Contributing Service (2)	Non-contributing Service (3)
	£ s.	£ s.
Under 20	7 16	2 2
20 and under 21 ...	7 17	2 3
21 ,, ,, 22 ...	7 18	2 5
22 ,, ,, 23 ...	7 19	2 7
23 ,, ,, 24 ...	8 0	2 9
24 ,, ,, 25 ...	8 2	2 12
25 ,, ,, 26 ...	8 5	2 15
26 ,, ,, 27 ...	8 9	2 19
27 ,, ,, 28 ...	8 14	3 4
28 ,, ,, 29 ...	9 0	3 9
29 ,, ,, 30 ...	9 7	3 15
30 ,, ,, 31 ...	9 14	4 0
31 ,, ,, 32 ...	10 2	4 6
32 ,, ,, 33 ...	10 9	4 11
33 ,, ,, 34 ...	10 17	4 17
34 ,, ,, 35 ...	11 4	5 2
35 ,, ,, 36 ...	11 11	5 7
36 ,, ,, 37 ...	11 18	5 12
37 ,, ,, 38 ...	12 5	5 17
38 ,, ,, 39 ...	12 13	6 2
39 ,, ,, 40 ...	13 0	6 7
40 ,, ,, 41 ...	13 8	6 12
41 ,, ,, 42 ...	13 15	6 17
42 ,, ,, 43 ...	14 3	7 1
43 ,, ,, 44 ...	14 10	7 5
44 ,, ,, 45 ...	14 17	7 8
45 ,, ,, 46 ...	15 4	7 12
46 ,, ,, 47 ...	15 11	7 15
47 ,, ,, 48 ...	15 18	7 19
48 ,, ,, 49 ...	16 6	8 3
49 ,, ,, 50 ...	16 13	8 6
50 ,, ,, 51 ...	16 19	8 9
51 ,, ,, 52 ...	17 5	8 12
52 ,, ,, 53 ...	17 10	8 15
53 ,, ,, 54 ...	17 15	8 17
54 ,, ,, 55 ...	17 19	8 19
55 ,, ,, 56 ...	18 3	9 1
56 ,, ,, 57 ...	18 7	9 3
57 ,, ,, 58 ...	18 11	9 5
58 ,, ,, 59 ...	18 15	9 7
59 ,, ,, 60 ...	18 18	9 9
60 and over ...	19 0	9 10

TABLE II

SERVICE OF A FEMALE NURSE (INCLUDING MENTAL HEALTH OFFICER) OR PHYSIOTHERAPIST, MIDWIFE OR HEALTH VISITOR WHO BECOMES EMPLOYED AS A FEMALE NURSE, MIDWIFE OR HEALTH VISITOR

Age (1)	Amount of transfer value appropriate in respect of each £100 of remuneration in relation to each completed year of service, namely :—	
	Contributing Service (2)	Non-contributing Service (3)
	£ s.	£ s.
Under 20	8 5	2 2
20 and under 21 ...	8 6	2 3
21 ,, ,, 22 ...	8 7	2 5
22 ,, ,, 23 ...	8 9	2 7
23 ,, ,, 24 ...	8 13	2 10
24 ,, ,, 25 ...	9 0	2 16
25 ,, ,, 26 ...	9 11	3 3
26 ,, ,, 27 ...	10 5	3 12
27 ,, ,, 28 ...	11 1	4 2
28 ,, ,, 29 ...	11 19	4 14
29 ,, ,, 30 ...	12 19	5 8
30 ,, ,, 31 ...	14 1	6 3
31 ,, ,, 32 ...	15 5	7 0
32 ,, ,, 33 ...	16 7	7 15
33 ,, ,, 34 ...	17 4	8 6
34 ,, ,, 35 ...	17 13	8 12
35 ,, ,, 36 ...	17 18	8 16
36 ,, ,, 37 ...	18 1	8 19
37 ,, ,, 38 ...	18 2	9 1
38 ,, ,, 39 ...	18 3	9 1
39 ,, ,, 40 ...	18 5	9 2
40 ,, ,, 41 ...	18 7	9 3
41 ,, ,, 42 ...	18 10	9 5
42 ,, ,, 43 ...	18 15	9 7
43 ,, ,, 44 ...	19 1	9 10
44 ,, ,, 45 ...	19 7	9 13
45 ,, ,, 46 ...	19 14	9 17
46 ,, ,, 47 ...	20 2	10 1
47 ,, ,, 48 ...	20 11	10 5
48 ,, ,, 49 ...	20 19	10 9
49 ,, ,, 50 ...	21 8	10 14
50 ,, ,, 51 ...	21 18	10 19
51 ,, ,, 52 ...	22 8	11 4
52 ,, ,, 53 ...	22 19	11 9
53 ,, ,, 54 ...	23 10	11 15
54 and over ...	24 2	12 1

TABLE III

Service as a Practitioner

Age	Amount appropriate in respect of each £100 of remuneration	Age	Amount appropriate in respect of each £100 of remuneration
	£ s.		£ s.
Under 25	8 4	45 and under 46	12 15
25 and under 26	8 12	46 ,, ,, 47	13 0
26 ,, ,, 27	8 19	47 ,, ,, 48	13 5
27 ,, ,, 28	9 5	48 ,, ,, 49	13 11
28 ,, ,, 29	9 10	49 ,, ,, 50	13 16
29 ,, ,, 30	9 15		
		50 ,, ,, 51	14 2
30 ,, ,, 31	10 0	51 ,, ,, 52	14 8
31 ,, ,, 32	10 5	52 ,, ,, 53	14 14
32 ,, ,, 33	10 10	53 ,, ,, 54	15 1
33 ,, ,, 34	10 14	54 ,, ,, 55	15 8
34 ,, ,, 35	10 18		
		55 ,, ,, 56	15 15
35 ,, ,, 36	11 2	56 ,, ,, 57	16 2
36 ,, ,, 37	11 5	57 ,, ,, 58	16 9
37 ,, ,, 38	11 8	58 ,, ,, 59	16 16
38 ,, ,, 39	11 10	59 ,, ,, 60	17 3
39 ,, ,, 40	11 13		
		60 ,, ,, 61	17 10
40 ,, ,, 41	11 16	61 ,, ,, 62	17 17
41 ,, ,, 42	12 0	62 ,, ,, 63	18 4
42 ,, ,, 43	12 3	63 ,, ,, 64	18 12
43 ,, ,, 44	12 7	64 and over ...	19 0
44 ,, ,, 45	12 11		

TABLE IV

(*a*) SERVICE OF A MALE OFFICER WHOSE EMPLOYMENT IS BY WAY OF MANUAL LABOUR

Age (1)	Amount of transfer value appropriate in respect of each £100 of remuneration in relation to each completed year of service, namely :—	
	Contributing Service (2)	Non-contributing Service (3)
	£ s.	£ s.
Under 26	7 16	3 18
26 and under 27 ...	7 18	3 19
27 ,, ,, 28 ...	8 1	4 0
28 ,, ,, 29 ...	8 4	4 2
29 ,, ,, 30 ...	8 8	4 4
30 ,, ,, 31 ...	8 12	4 6
31 ,, ,, 32 ...	8 16	4 8
32 ,, ,, 33 ...	9 1	4 10
33 ,, ,, 34 ...	9 5	4 12
34 ,, ,, 35 ...	9 10	4 15
35 ,, ,, 36 ...	9 14	4 17
36 ,, ,, 37 ...	9 19	4 19
37 ,, ,, 38 ...	10 3	5 1
38 ,, ,, 39 ...	10 8	5 4
39 ,, ,, 40 ...	10 13	5 6
40 ,, ,, 41 ...	10 18	5 9
41 ,, ,, 42 ...	11 4	5 12
42 ,, ,, 43 ...	11 9	5 14
43 ,, ,, 44 ...	11 15	5 17
44 ,, ,, 45 ...	12 1	6 0
45 ,, ,, 46 ...	12 7	6 3
46 ,, ,, 47 ...	12 14	6 7
47 ,, ,, 48 ...	13 0	6 10
48 ,, ,, 49 ...	13 6	6 13
49 ,, ,, 50 ...	13 12	6 16
50 ,, ,, 51 ...	13 18	6 19
51 ,, ,, 52 ...	14 3	7 1
52 ,, ,, 53 ...	14 8	7 4
53 ,, ,, 54 ...	14 12	7 6
54 ,, ,, 55 ...	14 15	7 7
55 ,, ,, 56 ...	14 18	7 9
56 ,, ,, 57 ...	15 2	7 11
57 ,, ,, 58 ...	15 5	7 12
58 ,, ,, 59 ...	15 8	7 14
59 ,, ,, 60 ...	15 12	7 16
60 and over ...	15 14	7 17

(*b*) SERVICE OF A FEMALE OFFICER WHOSE EMPLOYMENT IS BY WAY OF MANUAL LABOUR

Age (1)	Amount of transfer value appropriate in respect of each £100 of remuneration in relation to each completed year of service namely :—	
	Contributing Service (2)	Non-contributing Service (3)
	£ s.	£ s.
Under 20	5 6	1 1
20 and under 21 ...	5 9	1 3
21 ,, ,, 22 ...	5 12	1 5
22 ,, ,, 23 ...	5 15	1 7
23 ,, ,, 24 ...	5 19	1 9
24 ,, ,, 25 ...	6 3	1 12
25 ,, ,, 26 ...	6 8	1 16
26 ,, ,, 27 ...	6 13	2 1
27 ,, ,, 28 ...	6 19	2 6
28 ,, ,, 29 ...	7 6	2 12
29 ,, ,, 30 ...	7 14	2 17
30 ,, ,, 31 ...	8 3	3 3
31 ,, ,, 32 ...	8 12	3 9
32 ,, ,, 33 ...	9 2	3 16
33 ,, ,, 34 ...	9 12	4 3
34 ,, ,, 35 ...	10 2	4 10
35 ,, ,, 36 ...	10 12	4 16
36 ,, ,, 37 ...	11 1	5 2
37 ,, ,, 38 ...	11 10	5 8
38 ,, ,, 39 ...	12 0	5 14
39 ,, ,, 40 ...	12 9	6 0
40 ,, ,, 41 ...	12 19	6 5
41 ,, ,, 42 ...	13 8	6 11
42 ,, ,, 43 ...	13 17	6 16
43 ,, ,, 44 ...	14 6	7 1
44 ,, ,, 45 ...	14 15	7 6
45 ,, ,, 46 ...	15 3	7 11
46 ,, ,, 47 ...	15 11	7 15
47 ,, ,, 48 ...	15 18	7 19
48 ,, ,, 49 ...	16 5	8 2
49 ,, ,, 50 ...	16 12	8 6
50 ,, ,, 51 ...	16 19	8 9
51 ,, ,, 52 ...	17 5	8 12
52 ,, ,, 53 ...	17 10	8 15
53 ,, ,, 54 ...	17 15	8 17
54 ,, ,, 55 ...	17 19	8 19
55 ,, ,, 56 ...	18 3	9 1
56 ,, ,, 57 ...	18 7	9 3
57 ,, ,, 58 ...	18 11	9 5
58 ,, ,, 59 ...	18 15	9 7
59 ,, ,, 60 ...	18 18	9 9
60 and over ...	19 0	9 10

Regulation 30 (3). EIGHTH SCHEDULE

REDUCTION OF PENSION

TABLE I

FEMALE NURSE (INCLUDING MENTAL HEALTH OFFICER) OR PHYSIOTHERAPIST, MIDWIFE OR HEALTH VISITOR

Age	Annual Sum	Age	Annual Sum
	£ s. d.		s. d.
Under 20 ...	1 14 0	33 and under 34	13 6
20 and under 21	1 11 0	34 ,, ,, 35	13 0
21 ,, ,, 22	1 8 0		
22 ,, ,, 23	1 5 6	35 ,, ,, 36	13 0
23 ,, ,, 24	1 3 0	36 ,, ,, 37	12 6
24 ,, ,, 25	1 1 0	37 ,, ,, 38	12 6
		38 ,, ,, 39	12 6
25 ,, ,, 26	19 6	39 ,, ,, 40	12 0
26 ,, ,, 27	18 0		
27 ,, ,, 28	17 0	40 ,, ,, 41	12 0
28 ,, ,, 29	16 0	41 ,, ,, 42	12 0
29 ,, ,, 30	15 6	42 ,, ,, 43	11 6
		43 ,, ,, 44	11 6
30 ,, ,, 31	15 0	44 ,, ,, 45	11 0
31 ,, ,, 32	14 6		
32 ,, ,, 33	14 0	45 and over ...	11 0

TABLE II

OFFICER, OTHER THAN A FEMALE OFFICER MENTIONED IN TABLE I

Age	Annual Sum	
	Men	Women
	£ s. d.	£ s. d.
Under 20	1 14 0	1 14 0
20 and under 21 ...	1 13 0	1 11 6
21 ,, ,, 22 ..	1 12 6	1 9 6
22 ,, ,, 23 ..	1 12 0	1 7 6
23 ,, ,, 24 ...	1 11 0	1 5 6
24 ,, ,, 25 ...	1 10 6	1 4 0
25 ,, ,, 26 ...	1 10 0	1 2 6
26 ,, ,, 27 ...	1 9 6	1 1 0
27 ,, ,, 28 ...	1 9 0	1 0 0
28 ,, ,, 29 ...	1 8 6	19 0
29 ,, ,, 30 ...	1 8 0	18 0
30 ,, ,, 31 ...	1 7 6	17 6
31 ,, ,, 32 ...	1 7 0	17 0
32 ,, ,, 33 ...	1 6 0	16 6
33 ,, ,, 34 ...	1 5 6	16 0
34 ,, ,, 35 ...	1 5 0	15 6
35 ,, ,, 36 ...	1 4 6	15 0
36 ,, ,, 37 ...	1 4 0	14 6
37 ,, ,, 38 ...	1 3 6	14 0
38 ,, ,, 39 ...	1 3 0	13 6
39 ,, ,, 40 ..	1 2 6	13 0
40 ,, ,, 41 ...	1 2 0	13 0
41 ,, ,, 42 ...	1 1 6	13 0
42 ,, ,, 43 ...	1 1 0	12 6
43 ,, ,, 44 ...	1 0 6	12 6
44 ,, ,, 45 ...	1 0 0	12 0
45 ,, ,, 46 ...	19 6	12 0
46 ,, ,, 47 ...	19 0	12 0
47 ,, ,, 48 ...	18 6	11 6
48 ,, ,, 49 ...	18 0	11 6
49 ,, ,, 50 ...	17 6	11 0
50 ,, ,, 51 ...	17 0	11 0
51 ,, ,, 52 ...	17 0	11 0
52 ,, ,, 53 ...	16 6	11 0
53 ,, ,, 54 ...	16 0	11 0
54 ,, ,, 55 ...	15 6	11 0
55 and over	15 6	11 0

Regulation 60

NINTH SCHEDULE

Enactments Repealed

(*Notwithstanding these repeals the rights of existing pensioners are saved by Regulation* 60 *and of officers who opt to retain existing superannuation rights by Regulation* 22.)

Session and Chapter	Short Title	Extent of Repeal
9 Edw. 7, c. 48 ...	The Asylums Officers' Superannuation Act, 1909.	The whole Act, so far as relates to England and Wales.
8 & 9 Geo. 5, c. 33 ...	The Asylums and Certified Institutions (Officers Pensions) Act, 1918.	The whole Act, so far as relates to England and Wales.
20 & 21 Geo. 5, c. 23	The Mental Treatment Act, 1930.	Subsection (9) of section 11.
25 & 26 Geo. 5, c. 23	The Superannuation Act, 1935.	Section 10.
1 Edw. 8 & 1 Geo. 6, c. 68.	The Local Government Superannuation Act, 1937.	Subsection (5) of section 5.
2 & 3 Geo. 6, ch. xxvii	The King Edward the Seventh Welsh National Memorial Association Act, 1939.	The whole Act.
3 & 4 Geo. 6, ch. ix...	The King Edward the Seventh Welsh National Memorial Association Act, 1940.	The whole Act.

(12th August, 1947.)

EXPLANATORY NOTE

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

These regulations provide for the establishment of a contributory superannuation scheme for—

(*a*) officers and servants of Regional Hospital Boards, Executive Councils and other bodies constituted under the National Health Service Act, 1946 ;

(*b*) general medical practitioners and general dental practitioners on the lists of Executive Councils ; and

(*c*) other persons engaged in health services, whether provided under the Act or otherwise.

The scheme, which will be administered by the Minister of Health, will be financed by contributions from the participants in its benefits and by contributions made out of Exchequer moneys. The scheme will not be funded but will be subjected to actuarial investigation periodically.

The scheme is designed to provide benefits comparable with those applicable in the case of an established civil servant under the Superannuation Acts, 1918–1946. The major benefits are a pension and a lump sum retiring allowance, together with a widow's pension. Subsidiary benefits include a death gratuity, an incapacity pension, an injury allowance, a short service gratuity and an option to a pensioner to allocate part of his pension to his wife or any dependant.

Provision is made for preserving the rights in respect of previous superannuable service of persons who become participants in the scheme on being transferred under the Act of 1946 to the central health service. In addition, superannuable employment in the central health service is made interchangeable with superannuable service in the Civil Service, the Local Government Service and the Teaching Service.

The scheme also extends and modifies the Local Government Superannuation Act, 1937, in its application to local health authorities and other superannuation schemes administered by local health authorities under local Acts by substituting benefits similar to those provided by the regulations for the benefits of the Act of 1937 or those local Act schemes in relation to superannuable employees on the medical and nursing staff of the local health authorities, and to any other classes of superannuable employees designated by the Minister. Similar provision is made in relation to the superannuable staff employed by local education authorities for the purposes of the school health service.

National Health Service (Superannuation) Regulations, 1947

The following outline of the National Health Service (Superannuation) Regulations, 1947 *is intended to give the reader a background for any detailed study of the Regulations he may fined necessary. Some of the regulations are subject to amendment by virtue of the National Health Service (Superannuation) (Amendment) Regulations,* 1948, *to which reference should also be made.*

Persons to Whom Regulations Apply

The classes of persons to whom the main scheme applies without modification are set out in Regulation 2.

Medical and dental practitioners not whole-time are, with possible exceptions, subject to Regulation 38 (read together with the definition of *practitioner* in Regulation 1) and employees of local health authorities of the classes defined in Regulation 39, to Part III of the Regulations. Certain officers of local education authorities fall within Part IV (s. 42) and other anomalous cases under Part V.

The main superannuation scheme applies to :—

(*a*) whole-time administrative, professional or clerical officers of Regional Hospital Boards, Boards of Governors of Teaching Hospitals, Executive Councils and any such other body constituted under the Act as the Minister may approve who have attained the age of eighteen years.

(*b*) any other whole-time officers of such authorities as are referred to under (*a*) upon the expiration of a period of two years after attaining the age of eighteen years without a break of more than a month at any one time in the employment of that or any other employing authority as so defined.

(*c*) any part-time transferred officer with pension rights under the 1909 or 1937 Acts or as a local Act contributor.

(*d*) any part-time officer the rest of whose time is given to employment by some other employing authority, local authority or medical school or who falls within any class or description of persons the Minister may designate, the two year rule referred to under (*b*) being operative in the case of officers analogous to those therein mentioned.

(*e*) any other officer being a transferred officer whether whole- or part-time (or an officer entering the service of such employing authority by reason of acquisition of a hospital under s. 58 of the 1946 Act) if such officer had reasonable expectation of superannuation benefits.

(N.B.—Officer includes servant and the regulation must be construed accordingly but as restricted in meaning to officers within Regulation 2 (1), *q.v.* Ample provision is made throughout for counting *national service* as defined in Regulation 1.)

Contributions

The contribution by the participating officer is to be 6 per cent. of his total salary including valuation of emoluments ; the employing authority contributes 8 per cent., reduced in the case of manual workers to 5 per cent. and 6 per cent. respectively. The officer's contribution is to be subject to a reduction to offset that part of his contribution under the National Insurance Act, 1946, attributable to old age pension and his superannuation benefit will be correspondingly reduced when he becomes eligible for old age pension. Transferred officers, however, will have the option of paying full contributions under the Regulations and of keeping superannuation benefits unmodified on reaching the qualifying age for old age pension, but any transferred officer who before the appointed day for transfer has had a similar option under the National Insurance (Modification of Local Government Superannuation Schemes)

Regulations, 1947 will not have a second option on the appointed day but will be bound by his earlier decision.[1] Tables annexed to the regulations provide for modified deductions from the pension payable under the superannuation regulations when the lower (modified) contribution commences to be payable after the age of 20 years have been reached.

Pension Rights

Broadly the scheme provides for all new entrants to it, on retirement at or after sixty years of age,[2] a pension based on one-eightieth of the average of the last three years' remuneration for each year of contributing service with a maximum of forty-eightieths.[3] But if an officer retires after reaching sixty-five years of age he does not contribute in respect of service after that age [4] and his three year average [5] is also taken on the three years immediately prior to his attaining that age.

If an officer retires on account of ill-health before reaching the age of sixty and has ten years service to his credit, he will receive a pension [6] calculated as above but in all ordinary cases with a minimum of twenty-eightieths,[7] and an officer injured in the course of his duties, the injury being specifically attributable to the nature of those duties, may receive a pension at the discretion of the Minister up to a maximum of two-thirds of his salary coupled with corresponding provision for a widow's pension.[8] In this latter case the ten year qualifying period does not apply.

When any incapacity pension or injury allowance is granted, the Minister may require a pensioner who has become capable of resuming the duties of his employment to take up any employment in the health service for which his experience fits him, this subject to medical examination, etc.[9] Also, a pensioner receiving pay from public funds is precluded from receiving more by way of pension than would make up either his last annual salary before retirement or his average salary,[10] whichever were greater.[11]

Short Service Gratuity

If an officer who has completed more than five but less than ten years' service has to resign on account of ill-health, he will receive

[1] Reg. 30.

[2] As regards modifications in case of Mental Health Officers, Female Nurses, Holders of Joint Appointments, Late Entrants and officers of Local Health Authorities as well as for General Medical Practitioners—see separate headings.

[3] Regs. 5 & 6.

[4] Reg. 4.

[5] Reg. 17.

[6] Reg. 6.

[7] For exceptions see Regulation 6 (1) (*b*).

[8] Reg. 7 and as to amount of widow's pension see separate heading.

[9] Reg. 20.

[10] Reg. 17.

[11] Reg. 21.

a short service gratuity of one year's remuneration on the basis of the average for the last three years.[1]

Retiring Allowance

In addition to pension, a retiring allowance will be payable, i.e. a lump sum payment of three-eightieths of the average salary for the same three years as are the basis of pension rights (q.v.) in the case of a single man or on the basis of one-eightieth in the case of a married man, this differentiation being in respect of the additional advantage of widow's pension in the latter case and appropriate adjustment being made in the case of widowers and divorced officers.[2]

Transferred officers counting back service for the purposes of the new scheme (*e.g.* 1909 and 1937 Act contributors) whose covenanted benefits under their old superannuation arrangements did not include a death gratuity will have their retiring allowance increased by ½ per cent. for every year of contributing and ¼ per cent. for every year of non-contributing service prior to transfer to the new scheme where three-eightieths or three-one-hundred-and-sixtieths would otherwise be payable and 1½ per cent. and ¾ per cent. where one-eightieth and one-one-hundred-and-sixtieth would otherwise be payable.[3]

Death Gratuity

This is payable to the legal representatives of a deceased officer who has completed five years' service at the time of his death or who dies after becoming entitled to receive a pension or retiring or injury allowance or a short service gratuity. The full details as to computation which are fairly complex are given in Regulation 10. It may here be said that the death gratuity is generally substantial in the case of an officer who dies in the service without leaving a widow, being on the basis of three-eightieths of the average remuneration for the last three years for each year of contributing service, whilst at the other end of the scale, the death gratuity in respect of a married officer is on the basis of one-eightieth only and if he had retired is reduced by the aggregate amount he may already have received by way of pension.

Widow's Pension

Where a retired officer in receipt of a pension dies his widow, if she is within two years of her husband's age, will receive a pension equal to one-third of his, and where an officer dies who has ten years'

[1] Reg. 8. [2] Reg. 5. [3] Reg. 23.

service or more to his credit his widow, being within two years of her husband's age, will receive one-third of the pension her husband would have received had he been pensioned at the time of his death.[1] If, however, the widow was two years or more her husband's junior at the time of his death her pension will be reduced in accordance with the Second Schedule (Table A) or if she was so much his senior, increased in accordance with the Second Schedule (Table B).

Return of Contributions

Generally when an officer leaves the service without any of the aforesaid benefits accruing he will receive back his contributions with compound interest at 2½ per cent. with half-yearly rests but it is to be at the Minister's discretion whether he makes such a payment to an officer (or to the spouse of an officer) who has resigned or been dismissed in consequence of an offence of a fraudulent character or misconduct in his employment. There are also appropriate provisions for payment of contributions to a deceased officer's legal personal representatives. The right to return of contributions will extend to payments originally made under the 1909 Act which had not formerly been returnable.[2]

Allocation of Part Pension or Injury Allowance to Spouse or Dependant

Provision is made for officers other than married officers in respect of whom a widow's pension will be payable to allocate part pension in accordance with the conditions of Regulation 9.

Forfeiture of Rights

An officer who is dismissed, resigns or otherwise ceases to hold his employment in consequence of an offence of a fraudulent character or of grave misconduct committed by him in connection with the performance of the duties of his employment or otherwise in relation to his employment shall, if the Minister so directs, forfeit all claim in respect of his previous service to any superannuation benefits, whether provided under these regulations or under any enactment or scheme.[3]

Mental Health Officers—Modifications

Mental health officers who have served twenty years as such are to be subject to a minimum retiring age of fifty-five otherwise than in respect of incapacity or injury, and every year's service such officer serves in excess of twenty is to count as two years, so that

[1] Reg. 11. [2] Reg. 18. [3] Reg. 33.

such an officer is credited with forty years' service after having actually served thirty years only.[1] For the purpose of these regulations *mental health officer* is defined [2] as an officer on the medical or nursing staff of a hospital used wholly or partly for the treatment of mental patients or an institution so used for the treatment of defectives who devotes the whole or substantially the whole of his time to the treatment or care of such patients or defectives, and such other classes or descriptions of officers employed in such hospitals or institutions as aforesaid as the Minister may designate. (N.B.—The difference between this definition and that of a *Class I Officer* under the Act of 1909 is to be noted: as to rights of transferred Class I Officers, see under appropriate heading.) Provision is also made for doubling service after 50 years of age and 20 years service in treatment and care of patients in a mental hospital or mental deficiency institution.

Female Nurses and Physiotherapists, Midwives and Health Visitors—Modifications

The minimum retiring age otherwise than on account of incapacity or injury in the case of female nurses and physiotherapists, midwives and health visitors is fifty-five years.[3] These officers must nevertheless have completed forty years' service to earn full pension and are subject to the ten year qualifying period in the same cases as are officers retiring at sixty. As to female nurses, etc., who are *mental health officers*, see under that head as to counting service after twenty years at double rate.

Holders of Joint Appointments

Where one of the holders of a joint appointment ceases to hold his appointment *otherwise than for misconduct* and the appointment of the other is thereby determined, then that other if he has either attained the age of fifty years and completed ten years' service or has completed twenty years' service will receive a pension and retiring allowance calculated as though on account of incapacity before reaching normal pension age.[4]

Late Entrants

If a person enters the service after attaining the age of thirty-five, not being entitled to count any previous service, the Minister may for exceptional reasons within six months direct that the length of his service as such officer after the age of forty shall for the purposes of determining his pension rights, etc., be treated as eight-fifths of the actual length.[5]

[1] Reg. 29. [2] Reg. 1. [3] Reg. 28. [4] Reg. 27. [5] Reg. 26.

TRANSFERRED OFFICERS

Under the Local Government Superannuation Act, 1937, *any Local Act Scheme, or the Superannuation Acts* 1834–1946

Officers transferred from local authority service to the service of a Regional Hospital Board or other employing authority as defined in Regulation 1 will have the option of retaining pre-existing superannuation rights unaltered provided they give notice to that effect within three months of transfer.[1] Failing such notice such officers come into the new scheme counting all their years of contributing service under their old superannuation arrangements as contributing service under the new scheme and all service countable as non-contributing service under the old scheme as non-contributing service at half rate under the new, with the proviso that non-contributing service may be reckoned as contributing service if an officer makes the appropriate payments in accordance with the fourth schedule.[2] moreover, before the appointed day for transfer the transferring local authority may resolve that non-contributing service shall be treated as contributing service, in which case no additional contributions in respect thereof will be payable by the officer. (In the case of any female nurse, midwife or health visitor to whom s. 16 (1) (*a*) of the 1937 Act applies, and who cannot complete forty years' service before attaining the age of sixty, the authority may add up to five years' service.[3]) In the case of transferred civil servants the same option will be afforded, established service under the Superannuation Acts counting as contributing service under the Regulations.[4] Any such officer (not being a mental health officer) exercising the option to remain under his old scheme may, if he should at any time thereafter become a mental health officer, exercise the option of transfer to the new scheme by notice in writing to the employing authority within one month of becoming such officer.[5]

Officers under the Asylums Officers' Superannuation Act 1909 (*as amended in* 1918)

These officers have a similar option to that given to officers under the 1937 Act [6] but it is subject to the following modifications :—

(*a*) There is no such thing as non-contributing service under the 1909 Act and service not at present countable under that Act as contributing service will not count either as contributing or as non-contributing on transfer to the new

[1] Reg. 22
[2] Reg. 14.
[3] Reg. 15.
[4] Reg. 14
[5] Reg. 22 (1) (*c*).
[6] Reg. 22

scheme, unless as years added by the Visiting Committee up to a maximum of ten which will count for full pension rights.[1]

(*b*) Whilst under the new scheme there is to be a grade of *mental health officer*[2] analogous to a Class I officer under the 1909 Act there is no guarantee that every existing Class I officer will be so graded, so that an officer will have to ascertain his grading under the new regulations before deciding whether it is worth his while to transfer to the new scheme. It is further provided that any such officer (not being a mental health officer) exercising the option to remain under his old scheme may—if he should at any time thereafter become a mental health officer, in particular a Class I officer—exercise the option of transfer to the new scheme by notice in writing to his employing authority within one month of becoming such officer.[3]

(This later option might be specially important in the case of a Class I officer of long service who is not graded as a mental health officer at the outset and who consequently might decide to opt for his old scheme. Should he thereafter be re-graded as a mental health officer he might well find it advantageous to exercise the further option and transfer to the new scheme.)

(*c*) If a Class I officer who has opted to remain subject to the provisions of the Act of 1909 is at any time employed otherwise than for the purposes of a hospital or part of a hospital used for the treatment of mental patients or an institution or part of an institution used for the treatment of defectives, the option will cease to have effect and the officer will be accordingly transferred to the new scheme with back service rights as in the case of other transferred officers.[4]

Officers under the Federated Superannuation Scheme for Nurses and Hospital Officers

These officers have a more limited option than those already mentioned. They may opt to remain in the Federated Scheme by giving written notice to their employing authority within three months of transfer but if they wish to go over to the Minister's scheme they will not count past years of contributing service under the Federated Scheme but will simply take paid up policies as at the appointed day or alternatively, continue the Federated Scheme policies on their own account.[5] They will only count as contributing

[1] 1909 Act, s. 2(3) as modified by Reg. 15 (3).
[2] Regs. 1 & 29.
[3] Reg. 22 (1) (*c*).
[4] Reg. 22 (1) (*b*).
[5] Reg. 24.

service under the new scheme service as from the appointed day. Their past voluntary hospital service will, however, count towards the ten years minimum for an incapacity pension.[1]

Subject to a written claim being made to his new employing authority within three months of transfer, or such extended time as the Minister may allow, an officer of ten years' total hospital service at the time of transfer subject to the F.S.S.N.H.O. may also establish a claim to a supplementary superannuation right under Regulation 25 if he can show that he had a *reasonable expectation* of such a supplementary pension at the time he was transferred.

Officers subject to a Superannuation Fund (Voluntary Hospital)

Assuming that the Minister approves the Fund under Regulation 13 (3) (d) (v) then, by virtue of Regulation 14 (1) (b) (vi) and Regulation 48, the officer will have the option of transfer to the new scheme counting back service whilst subject to the Superannuation Fund for the purposes of that scheme. He may, alternatively, opt to remain subject to the Fund. Such officer may also have supplementary pension rights in respect of reasonable expectations on account of his hospital service prior to his becoming subject to the Superannuation Fund [2] but he will not be able to make any supplementary claim on account of reasonable expectations in respect of years of service covered by the Fund since in respect of those years he has full option to transfer to the new scheme.

Voluntary Hospital Officers provided for under Schemes or Arrangements made by their own Hospitals independent of the F.S.S.N.H.O., not being Funded Schemes

Where an officer was participating in a superannuation scheme similar to the F.S.S.N.H.O. or was participating in or had reasonable expectations of participating in any other superannuation scheme or arrangements at the time of transfer, and within three months of transfer so requests his new employing authority in writing, the Minister may, if undue hardship would otherwise be caused, allow him to continue subject to the same arrangements.[3]

Such an officer may also, by virtue of Regulation 25 (3), have a claim to a supplementary pension on grounds of reasonable expectations in the same way as any other former voluntary hospital officer if he gives written notice of claim to his new employing authority within three months of transfer and can substantiate the claim.

[1] Reg. 13 (8). [2] Reg. 25. [3] Reg. 24.

Officers of Local Health and Local Education Authorities

The following local health authority officers—subject to the terms of Regulation 39—are affected by these Regulations :—

(*a*) a contributing employee or local Act contributor on the medical or nursing staff of the authority ;

(*b*) a contributing employee or local Act contributor falling within such class or description of persons as the Minister may designate, after consultation with such associations of local authorities as appear to him to be concerned [1] ; or

(*c*) a person transferred under the Act to their employment, and who immediately before being so transferred was a contributing employee or local Act contributor.

By Regulation 35 medical inspectors of aliens are also included as local health authority officers for these purposes, and classes (*a*) and (*b*) apply also to officers of local education authorities engaged in the school medical service.[2]

The effect of the Regulation in the above cases is that all such officers, although still subject to the Local Government Superannuation Act, 1937, or the appropriate local Act scheme, will nevertheless be entitled to superannuation benefits precisely similar and under similar conditions to those provided for participants in the general scheme to be provided under the Regulations. But any existing officer on the appointed day may opt by notice in writing to his employing authority within three months to remain subject to his former conditions.

Application to Voluntary Organisations of the 1937 *Act and Local Act Schemes*

Provision is made by Regulation 41 for agreements for admission of officers of voluntary organisations providing services under Part III of the Act to the local authority superannuation scheme with benefits for those officers as above.

Anomalous Cases

Officers employed at institutions for defectives of violent and dangerous propensities under the Board of Control will fall within the scheme and not be treated as civil servants (Regulation 35).

The Minister may apply the scheme to any other persons engaged in the health service in accordance with Regulation 36.

[1] There is no present information as to the type of officer who will be so designated.

[2] Reg. 42.

MEDICAL AND DENTAL PRACTITIONERS

Medical and dental practitioners engaged whole-time in the health service are subject to the same scheme as all other officers (but with modifications as to any years as *practitioners* not in whole-time service) and the Minister has power by direction to make those subject to the scheme who are substantially whole-time, but all other doctors and dentists in the health service, including those on the list of an Executive Council for general practitioner and dental services, assistant practitioners and part-time specialists—all falling within the definition given of "practitioner"—are subject to the modified scheme laid down in Regulation 38.

The general effect of the Regulation in regard to a general practitioner in medicine or dentistry (not being an assistant) is that he will pay superannuation contributions on the net payments received by him in any year in respect of his participation in the service after deducting practice expenses, provision also being made for contributions during illness or national service at the annual rate immediately prior to such illness or service. Part-time specialists and assistants will pay on their actual remuneration as defined in Regulation 1.

The Minister *may* agree that a practitioner, not being a specialist, who has a life insurance contract or policy should be excepted from the superannuation regulations if the practitioner so requests the Executive Council in writing within three months after the appointed day and then, subject to such terms and conditions as the Minister may determine, the Minister will pay towards the maintenance of the contract or policy a sum equal to 8 per cent. of the practitioner's remuneration. As to position of specialists generally see Reg. 38 (5).

Pensions

The pension payable will be :—

(*a*) 1½ per cent. of his remuneration for each year as a practitioner [1] ;

(*b*) One-eightieth of the average of his last three years remuneration in any capacity in the health service otherwise than as a "practitioner" for each year of such service ; and

(*c*) One-one-hundred-and-sixtieth for every year as under (*b*) in respect of non-contributory service.[2] (There are also provisions for dealing with transitional cases of various kinds.)

Retiring Allowance and Death Gratuities

The retiring allowance will be 4½ per cent. of the practitioner's remuneration for each separate year of service as a practitioner (*not*

[1] Practitioner is here and in following paragraphs used as defined in Regulation 1 to include part-time specialists and also assistant practitioners.

[2] *See* footnote, p. 322.

4½ per cent. of the last years salary for every year's service) together with three-eightieths of the average remuneration for each year of contributing service in any other capacity and three-one-hundred-and-sixtieths for non-contributing service, calculated as for other officers. For married practitioners the figures are 1½ per cent., one-eightieth and one-one-hundred-and-sixtieth respectively with the same provisions as to divorce, judicial separation and death of wife. There are also modifications for certain anomalous cases.[1]

The calculation of death gratuities is subject to modifications similar to those in respect of retiring allowances but it must be appreciated that except so far as thus modified Regulation 10 applies, so that in many cases the death gratuity, if any, will be small.[1]

(S. I. 1948, No. 60)

The National Health Service (Functions of Regional Hospital Boards etc.) Regulations, 1948

Made - - -	19*th January*, 1948
Laid before Parliament	20*th January*, 1948
Coming into Operation	21*st January*, 1948

The Minister of Health, in exercise of his powers under section 12 of the National Health Service Act, 1946,[2] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

Part I

1. These regulations may be cited as the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948, and shall come into operation on the twenty-first day of January, 1948.

2.—(1) In these regulations "the Act" means the National Health Service Act, 1946, and "the Minister" means the Minister of Health.

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

[1] Special provision for reckoning Part I service not exceeding ten years (non-contributing service regarded as half its length) see Regulation 38 (3) (*g*).

[2] 9 & 10 Geo. 6, c. 81.

[3] 52 & 53 Vict., c. 63.

Part II

Regional Hospital Boards

3. A regional hospital board shall, subject to and in accordance with these regulations and any directions which may be given by the Minister, and subject to the exercise of functions by hospital management committees and, in relation to teaching hospitals, by boards of governors in accordance with the following provisions of these regulations, administer on behalf of the Minister the hospital and specialist services provided in their area.

4. For the purposes of the last foregoing regulation, a regional hospital board shall exercise on behalf of the Minister and subject to and in accordance with any directions which may be given by the Minister, but to the extent provided in the next following regulation through the agency of hospital management committees, the functions of the Minister in so far as they relate to hospitals other than teaching hospitals and to services provided at or in connection with hospitals other than teaching hospitals under the following provisions of the Act, and of any regulations made thereunder, namely :—

(1) Section 3 (1) with respect to the provision of hospital and specialist services ;

(2) Section 3 (2) with respect to the making and recovery of charges for the supply, replacement or repair of appliances ;

(3) Section 3 (3) with respect to the payment of travelling expenses ;

(4) Sections 4 and 5 with respect to the making available of hospital accommodation on part payment and the setting aside of special accommodation for private patients and the recovery of charges, and the making of arrangements with medical practitioners for the treatment of their private patients in hospital :

Provided that—

(*a*) Nothing in these regulations shall authorise a regional hospital board to acquire land for the purposes of providing hospital and specialist services ;

(*b*) A regional hospital board shall not without the consent of the Minister undertake any building or civil engineering works the estimated total cost of which exceeds £10,000 ;

(*c*) In the case of any work of construction, reconstruction or alteration of a mental hospital, a hospital designated by the Minister for the purposes of the Mental Treatment Act, 1930,[1] or an institution for mental defectives, a regional

[1] 20 & 21 Geo. 5, c. 23.

hospital board shall comply with such standards of accommodation as may from time to time be laid down by the Minister ;

(*d*) The amount of the accommodation to be made available under section 4 or to be set aside under section 5 of the Act shall be subject to the approval of the Minister.

Part III

Hospital Management Committee

5. The hospital management committee of any hospital or group of hospitals shall, subject to and in accordance with any directions which may be given by the regional hospital board concerned or by the Minister, control and manage the same and the services provided in connection therewith on behalf of the board, and for that purpose the committee shall, subject to and in accordance with any directions as aforesaid, exercise on behalf of the board the following functions of the board relating to the hospital or group of hospitals :—

(1) The functions of the board under regulations made under section 3 (2) of the Act and under these regulations with respect to the making and recovery of charges for the supply, replacement or repair of appliances ;

(2) The functions of the board under regulations made under section 3 (3) of the Act and under these regulations with respect to the payment of travelling expenses ;

(3) The functions of the board under section 4 of the Act and any regulations made thereunder and under these regulations with respect to the admission of patients to and their discharge from hospital accommodation made available on part payment and to the recovery of charges ;

(4) The functions of the board under section 5 of the Act and any regulations made thereunder and under these regulations with respect to the admission of patients to and their discharge from special accommodation set aside for private patients and to the recovery of charges for accommodation and services provided for private patients and to the making of arrangements by medical practitioners for the treatment of their private patients in hospital ;

(5) The functions of the board under section 12 (1) of the Act with respect to the appointment and dismissal of officers employed for the purposes only of the hospital or group of hospitals other than the classes of officers specified in regulations made under section 14 (2) of the Act ;

(6) The functions of the board under section 12 (1) of the Act

with respect to the maintenance of premises forming part of or used in connection with the hospital or group of hospitals :

Provided that the committee shall not without the consent of the board undertake any building or civil engineering works the estimated total cost of which exceeds £1,000 ;

(7) Subject to any arrangements which may be made by the Minister or by the board with the consent of the Minister, the functions of the board under section 12 (1) of the Act with respect to the acquisition and maintenance of equipment, furniture and other movable property required for the purposes of the hospital or group of hospitals ;

(8) The functions of the board under section 62 of the Act with respect to the provision of special schools ;

(9) The functions of the board with respect to the receipt of payments under section 36 (2) of the Road Traffic Act, 1930,[1] and section 16 of the Road Traffic Act, 1934,[2] as amended by the Act.

Part IV

Boards of Governors of Teaching Hospitals

6. The board of governors of a teaching hospital shall, on behalf of the Minister, and subject to and in accordance with these regulations and any directions which may be given by the Minister, manage and control that hospital and the services provided in connection therewith.

7. For the purposes of the last foregoing regulation, the board of governors of a teaching hospital shall exercise on behalf of the Minister, and subject to and in accordance with any directions which may be given by the Minister, the functions of the Minister in so far as they relate to that hospital under the following provisions of the Act or of any regulations made thereunder, namely :—

(1) Section 3 (1) with respect to the provision of hospital and specialist services ;

(2) Section 3 (2) with respect to the making and recovery of charges for the supply, replacement or repair of appliances ;

(3) Section 3 (3) with respect to the payment of travelling expenses ;

(4) Sections 4 and 5 with respect to the making available of hospital accommodation on part payment and the setting

[1] 20 & 21 Geo. 5, c. 43. [2] 24 & 25 Geo. 5, c. 50.

aside of special accommodation for private patients and the recovery of charges, and the making of arrangements with medical practitioners for the treatment of their private patients in hospital :

Provided that—

(*a*) Nothing in these regulations shall authorise a board of governors to acquire land for the purposes of providing hospital and specialist services ;

(*b*) A board of governors shall not without the consent of the Minister undertake any building or civil engineering works the estimated total cost of which exceeds £10,000 ; and

(*c*) The amount of the accommodation to be made available under section 4 or to be set aside under section 5 of the Act shall be subject to the approval of the Minister.

Part V

General

8. Nothing in these regulations shall affect the power of the Minister to provide or administer hospital and specialist services otherwise than in accordance with the foregoing provisions of these regulations—

(*a*) so far as such services relate to the provision of equipment, furniture and other movable property ; or

(*b*) where in his opinion special circumstances make it desirable to do so.

9. Notwithstanding anything contained in these regulations a regional hospital board, hospital management committee or board of governors of a teaching hospital shall not without the consent of the Minister carry out any work of a kind specified in Part II of the Sixth Schedule to the Defence (General) Regulations, 1939, if a licence under paragraph (2) of regulation 56A of the last-mentioned regulations would have been required in respect of such work but for the provisions of paragraph (5) of that regulation.

(S. I. 1948, No. 112)

The National Health Service Act (Appointed Day) Order, 1948

Made - - - 26*th January*, 1948

Whereas it is provided by the National Health Service Act, 1946,[1] that certain provisions of that Act are to come into force on the

[1] 9 & 10 Geo. 6, c 81.

appointed day, and the expression " appointed day " is defined by subsection (1) of section seventy-nine of that Act to mean such day as His Majesty may by Order in Council appoint, and it is provided by the said subsection (1) that different days may be appointed for the purposes of different provisions of the said Act and for the repeal or amendment of different enactments by the said Act :

And whereas by the National Health Service Act (Appointed Day) Order, 1947,[1] it was provided that sections forty-nine and subsections (1) and (2) of section fifty of the said Act (which provide for the transfer to the Minister of Health of functions of the Board of Control) and certain amendments and repeals connected with the said sections forty-nine and fifty should come into force on the first day of July, nineteen hundred and forty-seven :

Now, therefore, His Majesty, in pursuance of the said subsection (1) of section seventy-nine of the said Act, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the National Health Service Act (Appointed Day) Order, 1948.

2. Save as provided by the said Order of 1947, the appointed day for the purposes of the National Health Service Act, 1946, shall be the fifth day of July, nineteen hundred and forty-eight.

(S. I. 1948, No. 167)

The Isles of Scilly (National Health Service) Order, 1948

Made - - - 30*th January*, 1948

Whereas by subsection (3) of section 80 of the National Health Service Act, 1946,[2] it is enacted that the Minister of Health may by order direct that the Act shall, subject to such exceptions, adaptations and modifications as may be specified in the order, extend to the Isles of Scilly, but except as so applied the Act shall not extend to the said Isles, and it is further provided that the Minister may by any such order amend or repeal any provisions contained in the Isles of Scilly Orders, 1927 to 1943 ;

And Whereas by the Isles of Scilly (National Health Service) Order, 1946,[3] the provisions of Parts I and II and the first three schedules of the Act were extended to the Isles ;

And Whereas it is expedient that the said order of 1946 should be

[1] S. R. & O. 1947, No. 983.
[2] 9 & 10 Geo. 6, c. 81.
[3] S. R. & O. 1946 (No. 2240) I, p. 1061.

revoked and that the Act as a whole should be extended to the Isles subject to the exceptions, adaptations and modifications herein provided :

Now, therefore, the Minister of Health, in exercise of the powers conferred on him by subsection (3) of section 80 of the National Health Service Act, 1946, hereby orders as follows :—

1. This order may be cited as the Isles of Scilly (National Health Service) Order, 1948, and shall come into operation on the date hereof.

2.—(1) In this order " the Act " means the National Health Service Act, 1946, and " the Isles " means the Isles of Scilly.

(2) The Interpretation Act, 1889,[1] applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

3. The Isles of Scilly (National Health Service) Order, 1946,[2] is hereby revoked.

4. The Act shall extend to the Isles subject to the following exceptions, adaptations and modifications :—

(i) The Council of the Isles as constituted under the Isles of Scilly Order, 1943,[3] shall be the local health authority for the Isles and shall be deemed to be a local authority for the purposes of the Act ;

(ii) In subsection (1) of section 21 of the Act for the words " It shall be the duty of every local health authority to " there shall be substituted the words " The local health authority for the Isles of Scilly may with the approval of the Minister and to such extent as the Minister may direct shall " ;

(iii) For subsection (3) of section 22 of the Act there shall be substituted the following provision :—

" (3) The Council of the Isles of Scilly shall be the welfare authority for the purposes of section 203 of the Public Health Act, 1936. "[4]

(iv) The Executive Council for the Isles shall be constituted in accordance with the provisions contained in the schedule to this order and subsection (1) of section 31 of the Act shall have effect accordingly ;

(v) In the proviso to subsection (3) of section 31 of the Act the words from " and in making " to the end of the proviso shall be omitted ;

(vi) Subsection (2) of section 41 (which provides for the

[1] 52 & 53 Vict., c. 63.
[2] S. R. & O. 1946 (No. 2240) I, p. 1061.
[3] S. R. & O. 1943 (No. 107) I, p. 602.
[4] 26 Geo. 5, & 1 Edw. 8, c. 49.

constitution of Ophthalmic Services Committees to exercise functions of Executive Councils) of the Act shall not apply to the Isles ;

(vii) In subsection (1) (*d*) of section 68 of the Act for references to a county or county borough there shall be substituted references to the Isles of Scilly ;

(viii) In subsection (2) (*a*) of section 69 of the Act for the words " to an Executive Council from the insurance committee for any county or county borough comprised in the area of the Council " there shall be substituted the words " to the Executive Council from the Insurance Committee of the Isles " ;

(ix) In paragraph 2 of Part II of the Fourth Schedule to the Act the words " the Council of the Isles of Scilly " shall be substituted for the words " the council of a county or county borough."

5. As from the date on which section 3 of the Act comes into operation the Isles of Scilly Order, 1943, shall be amended by the deletion therefrom of article 9 (2) (*e*) (which provides that the expenses in relation to the examination conveyance and maintenance of rate-aided persons of unsound mind shall be general expenses) and article 22 (which empowers the Council of the Isles to contract for the reception of rate-aided persons of unsound mind of the Isles into any mental hospital).

SCHEDULE

Constitution of Executive Council

The Executive Council for the Isles of Scilly shall consist of a Chairman appointed by the Minister of Health and the following further members :—

(*a*) Such members of the Council of the Isles as shall from time to time have notified the Chairman in writing of their desire to serve as members of the Executive Council ;

(*b*) Such medical practitioners, dental practitioners and registered pharmacists as in the opinion of the Council of the Isles of Scilly are either permanently resident or are practising in the said Isles and have notified the Chairman in writing of their desire to serve as members of the Executive Council ; and

(*c*) Two members appointed by the Minister.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

The Order extends to the Isles of Scilly the provisions of the National Health Service Act, 1946, subject to certain modifications,

the chief of which are that the Council of the Isles is to be the local health authority for the purposes of the Act and that the Executive Council for the Isles is to be constituted in accordance with the provisions of the Schedule to the Order.

The Isles of Scilly (National Health Service) Order, 1946, which applied part only of the Act to the Isles, is revoked.

The Order revokes certain provisions of the Isles of Scilly Order, 1943, which are inconsistent with the provisions of the Act.

For **S.I. 1948, No. 419,** *see page* 447, *and for* **S.I. 1948, No. 441,** *see page* 425

(S. I. 1948, No. 505)

The National Health Service (General Dental Services) Regulations, 1948

Made	12*th March*, 1948
Laid before Parliament . .	15*th March*, 1948
Coming into Operation . .	24*th March*, 1948

The Minister of Health, in exercise of the powers conferred upon him by sections 32, 38, 39, 40, 44, 45 and 74 of the National Health Service Act, 1946,[1] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

Part I

General

Short Title and Commencement

1. These regulations may be cited as the National Health Service (General Dental Services) Regulations, 1948, and shall come into operation on the 24th day of March, 1948.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the Board " means the Dental Estimates Board constituted under Part IV of these regulations ;

" chemist " means any person on the pharmaceutical list of a Council ;

" Council " means the Executive Council constituted for any area ;

[1] 9 & 10 Geo. 6, c. 81.

" dental estimate form " means the form set out in Part II of the fourth schedule to these regulations, or a form to the like effect ;

" dental fitness " means such a reasonable standard of dental efficiency and oral health as is necessary to safeguard general health and " dentally fit " has a corresponding meaning ;

" dental officer " means any dental officer appointed by the Minister for a district for the purpose of advising the Minister, the Board, Councils, Local Dental Committees, and dental practitioners on questions arising in connection with estimates submitted or dental treatment given by practitioners, or the conditions under which general dental services are provided by practitioners ;

" dental treatment " means all proper and necessary treatment which a dental practitioner usually undertakes for a patient, including examination and advice, the obtaining of radiographs, scaling, treatment of the gums, fillings, extractions, crowning, provision of artificial dentures and their repair and remaking, and the administration of anæsthetics in connection with any such treatment, and includes the giving of orders on the appropriate form for drugs or the supply of drugs in accordance with these regulations ;

" drugs " means such drugs and medicines as are specified in the third schedule to these regulations ;

" emergency treatment " means any treatment immediately required for the relief of pain or other urgent symptoms ;

" health centre " means premises provided by a local health authority in accordance with the provisions of section 21 of the Act ;

" practitioner " means a registered dental practitioner ;

" supply " in relation to an appliance includes replacement.

(2) The Interpretation Act, 1889,[1] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Part II

General Arrangements for Provision of General Dental Services

Terms of Service for Practitioners

3.—(1) The arrangements which a Council is required by section 40 of the Act to make with practitioners for the provision of general dental services shall incorporate—

[1] 52 & 53 Vict., c. 63.

(*a*) in the case of a practitioner undertaking to provide general dental services elsewhere than at a health centre the terms of service contained in Part I of the first schedule to these regulations, and

(*b*) in the case of a practitioner undertaking to provide general dental services at a health centre the terms of service contained in Part II of the said schedule.

(2) Where a practitioner provides general dental services both elsewhere than at a health centre and at a health centre, the arrangements shall incorporate the provisions contained in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph and whichever provisions are applicable shall apply.

Dental List

4.—(1) The Council shall prepare a list, to be called " the dental list," of the practitioners who, having applied, are entitled to be included in the list.

(2) Application by a practitioner for inclusion in the dental list shall be made by delivering or sending the application by post to the Council in the form set out in Part I of the fourth schedule to these regulations, or in a form to the like effect.

(3) The dental list shall contain, in addition to the names of practitioners—

(*a*) the address of any surgery or health centre at which the practitioner undertakes to provide general dental services ;

(*b*) particulars of the days and hours at which he is or will be normally in attendance ;

(*c*) where two or more practitioners practise in partnership, the names of the partners ; and

(*d*) where the practitioner is acting as an assistant, the name and address of the principal ;

and may, if the Council think fit, be so arranged as to show the part of the area in which each practitioner will provide treatment.

(4) Copies of the dental list shall be available for inspection at the office of the Council and at such other places as appear to the Council to be convenient for informing all persons interested and shall be kept revised up-to-date.

(5) The Council shall send a copy of the dental list to the Minister, to the Board and the Local Dental Committee and shall within seven days inform each of them of any alterations which may from time to time be made therein. The Council shall also send a copy of the list to the Local Medical and Local Pharmaceutical Committees, the local health authority, the Regional Hospital Board, the Hospital

Management Committees of hospitals serving the area, the Board of Governors of any teaching hospital in the area, and any chemist under contract with the Council to provide pharmaceutical services, and at intervals of not more than three months shall notify them of any alteration made in the dental list.

Arrangements for Supply by Practitioners of Drugs

5.—(1) Where in the opinion of the Council a practitioner's surgery is so situated that it would be inconvenient for any of the persons for whom he is providing general dental services to obtain drugs from a chemist, the Council may require him to supply the drugs specified in the third schedule to these regulations either (*a*) in respect of those persons or (*b*) in respect of all persons for whom he is providing general dental services :

Provided that notwithstanding such requirement the practitioner may if so requested by any such person instead of supplying such drug give a prescription for the same to be supplied by a chemist.

(2) Notwithstanding anything contained in this regulation—

(*a*) a practitioner shall not be required to undertake the supply of drugs under this regulation if he satisfies the Council, or on appeal the Minister, that he is not in the habit of supplying drugs or that the person to be supplied can with at least equal facility obtain a supply of drugs from a chemist ; and

(*b*) a practitioner shall be entitled to receive reasonable notice from the Council that he is required to undertake the supply of drugs or that such supply is to be discontinued.

Publication of Particulars

6. The Council shall cause to be published, in such manner as appears to them best calculated to inform all persons interested, particulars of the arrangements made by the Council, including a statement of the places where copies of the terms of service for practitioners and copies of the dental list may be seen, the places at which any necessary forms of application are available, and any other particulars which the Council think proper.

Part III

Method of Obtaining General Dental Services

Elsewhere than at a Health Centre

7. A person requiring general dental services may apply to a practitioner practising elsewhere than at a health centre whose name appears on any dental list.

At a Health Centre

8. A person requiring general dental services may apply to a practitioner practising at a health centre whose name appears on the dental list of the area in which the centre is situated.

Exercise of Choice of Practitioner in Certain Cases

9. The right to choose the person by whom general dental services are to be provided shall be exercised—

(*a*) on behalf of any person under the age of sixteen by the mother, or in her absence, the father, or in the absence of both parents, the guardian or other person who has the care of the child ; and

(*b*) on behalf of any other person who on account of old age, sickness or other infirmity is incapable of choosing a person to provide any of the services by a relative or any person who has the care of such person.

Examination by Dental Officer

10. It shall be a condition of obtaining general dental services that a person shall, if required by the Board, submit himself for examination by a dental officer.

Part IV

Dental Estimates Board

Constitution

11.—(1) There shall be constituted a Board, to be called the Dental Estimates Board, for the purpose of the approval of estimates for dental treatment and of carrying out the duties imposed on them by these regulations.

(2) The Board shall consist of a chairman who shall be a practitioner and eight other members of whom six shall be practitioners.

(3) The chairman and other members shall be appointed by the Minister after consultation with such organisations as the Minister may recognise as representative of practitioners.

(4) The Board shall be a body corporate with perpetual succession and a common seal and a power to hold land without licence in mortmain :

Provided that the Board shall not acquire land except with the consent of the Minister.

Term of Office

12. The chairman and members of the Board shall hold office during the Minister's pleasure.

Resignation or Removal of Members

13.—(1) A member of the Board who desires to resign his membership shall give notice in writing to the Minister.

(2) A member shall, unless the Minister otherwise directs, cease to hold office—

(*a*) if he has not attended a meeting of the Board for six months ;

(*b*) if he is adjudged bankrupt, or makes a composition, or arrangement, with his creditors ; or

(*c*) if he is convicted of a criminal offence.

(3) A member, being either—

(*a*) a person who holds any paid appointment or office, or other place of profit, in the disposal of a Regional Hospital Board, Hospital Management Committee, Board of Governors of a teaching hospital, or local health authority and who is dismissed from such appointment, office or place of profit ; or

(*b*) a person whose name is removed under the provisions of section 42 of the Act from any list prepared under Part IV of the Act ;

shall forthwith cease to be a member.

Officers

14.—(1) The Board shall appoint a person approved by the Minister to act as clerk and shall also appoint such other officers as may be necessary. The resolution appointing the clerk shall embody the terms on which the appointment is made.

(2) The Board shall pay to the clerk and to their other officers such remuneration as the Minister may authorise.

Chairman

15.—(1) At every meeting of the Board the chairman, if present, shall preside.

(2) If the chairman is absent from any such meeting, the members present at the meeting shall elect from amongst themselves a person to act as chairman for the meeting.

Proceedings

16. The proceedings of the Board shall not be invalidated by any vacancy in the membership of the Board, or by any defect in the appointment or qualification of any member thereof.

Standing Orders

17. The Board may make, vary and revoke standing orders for the regulation of the proceedings and business of the Board, and in particular—

(*a*) for providing that such number of members of the Board, not being less than four, as the standing order may specify shall form a quorum ; and

(*b*) for providing that, subject to such exceptions and qualifications as may be specified in the standing orders, if a member of the Board has any pecuniary interest, direct or indirect, in any estimate or other matter relating to general dental services, he shall, as soon as practicable, disclose the fact to the chairman and shall not take part in the consideration or discussion of any question with respect to the estimate or other matter.

Voting

18. Every question at a meeting of the Board shall be determined by a majority of the votes of the members present and voting on the question, and in case of an equal division of votes the chairman shall have a second or casting vote.

Minutes

19. Minutes of the proceedings at every meeting of the Board and a record of the attendance of members at such meeting shall be kept by the clerk or other officer appointed for the purpose.

Reports

20. The Board shall submit to the Minister as soon as may be after the 31st day of March in each year a report of the Board's proceedings for the year ending on that day and shall also furnish the Minister from time to time with such information in regard to their work as the Minister may require.

Part V

Special Treatment and Treatment Necessitated by Lack of Care

Expensive Dental Appliances and Special Dental Treatment

21.—(1) Where a practitioner agrees at a person's request either—

(*a*) to supply, as part of general dental services, any denture which is of a more expensive type than the corresponding type made of plastic or vulcanite, or

(*b*) to repair such a denture at a cost in excess of the cost of repair of the said corresponding type, or

(*c*) to provide, as part of such services, special dental treatment consisting of gold fillings, inlays or crowns,

he shall submit to the Board an estimate of the normal charge on a dental estimate form and a further estimate of the additional or special charge on the form set out in Part III of the fourth schedule to these regulations or on a form to the like effect. Before submitting the forms the practitioner shall obtain the signature of the person concerned to the further estimate and shall not proceed with any treatment other than emergency treatment until approval is given.

(2) In approving an estimate under the last preceding paragraph the Board shall indicate in Part 3 of the dental estimate form the amount determined in accordance with a scale set out in regulations made under the Act to be paid by the person supplied or treated and shall inform that person of the amount.

(3) The Council shall be liable for such part only of the cost of services to which this regulation applies as is not by this regulation made the responsibility of the person supplied or treated.

(4) Any denture or special treatment supplied or provided under paragraph (1) of this regulation which, in the opinion of the Board, is required by the person concerned owing solely to his clinical condition or any repair of a denture so supplied shall be supplied or provided free of charge to that person and the Council shall be liable for the whole of the cost thereof.

Replacements Necessitated by Lack of Care

22.—(1) Where on the receipt of an estimate for the replacement of a dental appliance to any person (in this regulation called " the patient ") as part of general dental services, the Board consider that there are grounds for believing that the replacement may be necessitated by lack of care on the part of the patient, they shall refer the matter to the Council for investigation.

(2) On receipt of such reference the Council shall make such inquiry into the matter as they think fit and if in their opinion the circumstances so require, or if the patient so demands, the inquiry shall take the form of an oral hearing by a committee of the Council constituted for this purpose.

(3) After the completion of such inquiry the Council shall determine whether the replacement is necessitated by lack of care on the part of the patient and whether the whole or a proportion of the cost of the replacement shall be borne by the patient and shall communicate their decision to the patient, the practitioner and the

Board, and the Council shall be responsible for the payment of such part only of the cost as is not determined to be payable by the patient :

Provided that if subsequently it appears to the Council that the payment of the sum so determined to be payable by the patient would involve undue hardship they may make such contribution thereto as they think fit.

Provisions Applicable to Services at Health Centres

23. In their application to general dental services provided at a health centre the provisions of this Part of the regulations shall be subject to the following modifications :—

(*a*) Where at the request of a person a practitioner agrees to supply or repair a denture or to provide treatment of a kind specified in regulation 21, the practitioner shall not be required to submit an estimate to the Dental Estimates Board, but, in lieu thereof, he shall give notice to the dental officer on a form to be supplied by the Council and shall not proceed with the treatment other than emergency treatment until the approval of the dental officer is received. The notice to be given shall specify the sum to be paid by the person which shall be determined in accordance with the appropriate scale of fees and shall be subject to the approval of the dental officer.

(*b*) Any service provided under the last preceding paragraph which in the opinion of the dental officer is required by the person concerned owing solely to his clinical condition shall be provided free of charge to that person.

(*c*) Where in connection with the replacement of a dental appliance supplied to any person as part of general dental services it appears to the practitioner that there is reason to suppose that such replacement is necessitated by lack of care on the part of the person supplied, he shall, unless such person admits in writing that the replacement is so necessitated, report the matter to the Council. The Council shall thereupon investigate the case in the manner provided by paragraph (2) of regulation 22. If on such investigation the Council are satisfied that the replacement is not necessitated by such lack of care as aforesaid they shall so inform the person supplied and the practitioner. If such lack of care is admitted or determined as aforesaid, the practitioner shall be entitled to recover from such person the appropriate

fees payable in respect of such replacement or such part of such fees as the Council may determine.

Payment of Charge by Person Supplied

24. The practitioner shall be entitled to recover from any person who receives services under this part of these regulations the appropriate fees payable by the person in accordance with these regulations, and the practitioner may decline to commence or proceed with treatment until he has received payment thereof.

Part VI

Transitional Provisions

25.—(1) Where before the appointed day a practitioner has undertaken in accordance with an approved estimate to give dental treatment in pursuance of the provisions of the National Health Insurance (Dental Benefit) Regulations, 1938,[1] as amended, or has under such regulations commenced to give treatment which did not require prior approval of an estimate, the practitioner shall, on completing such treatment on or after that date return the estimate to the Board and shall be entitled to receive from the Council payment for such treatment in accordance with—

(*a*) the above-mentioned regulations, including the scale of fees then in force under them, in respect of such part of the treatment as has been carried out before the appointed day ;

(*b*) these regulations, including the scale of fees in force on the appointed day, in respect of the remainder of the treatment.

(2) If payment has already been made by any person in respect of such treatment the Council may require as a condition of any payment by them that the practitioner shall refund to the person any excess over the amount payable by the patient in accordance with the National Health Insurance (Dental Benefit) Regulations, 1938, as amended.

(3) The Board shall determine any question arising under the foregoing paragraphs of this regulation as to whether treatment has been carried out on or after the appointed day.

(4) Nothing in this regulation shall be construed as affecting any liability to which the National Insurance Fund is subject by virtue of section 66 of the National Insurance Act, 1946 [2] (which relates to the transfer of assests and liabilities) in respect of such part of any treatment as has been carried out before the appointed day.

[1] S. R. & O. 1938 (No. 1466) II, p. 2453.

[2] 9 & 10 Geo. 6, c. 67.

FIRST SCHEDULE

PART I

TERMS OF SERVICE FOR DENTAL PRACTITIONERS PRACTISING ELSEWHERE THAN AT A HEALTH CENTRE

Interpretation

1. In these terms of service, except so far as the context otherwise requires, the expression " the regulations " means the National Health Service (General Dental Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

Incorporation of Provisions of Regulations, etc.

2. Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948,[1] affecting the rights and obligations of practitioners shall be deemed to form part of these terms of service.

Standard of Service

3.—(1) In providing general dental services under the regulations a practitioner shall employ a proper degree of skill and attention and shall, subject to the provisions of paragraph 8 hereof, provide the treatment necessary to secure dental fitness that the person concerned is willing to undergo, and shall satisfactorily complete that treatment.

(2) A practitioner shall provide proper and sufficient surgery and waiting-room accommodation for persons to whom he is providing general dental services.

(3) A practitioner's surgery shall be furnished with suitable equipment and a practitioner shall provide treatment with suitable instruments.

Inspection of Surgery and Waiting Room Accommodation

(4) A practitioner on receipt of reasonable notice in writing shall admit a dental officer at all reasonable times to any surgery or waiting room under the practitioner's control for the purpose of inspecting the same.

Visiting

(5) A practitioner shall visit and treat a person for whom he has undertaken to provide general dental services whose condition so requires at any place where that person may be at the time, within five miles of his surgery.

Anæsthetics

(6) A practitioner shall be responsible for providing the services of a medical or dental practitioner when necessary for the administration of an anæsthetic in connection with any operation undertaken by him under these terms of service.

Reference to Another Practitioner or Hospital or Specialist Services

4. If the condition of a person requiring general dental services is such as to require treatment which the practitioner is unable to carry out, but

[1] S. I. 1948, No. 507.

such treatment to the knowledge of the practitioner can be provided by another practitioner whose name appears on any dental list, or is available as part of the hospital and specialist services provided under Part II of the Act, the practitioner shall inform the said person of the fact and if the person so wishes, the practitioner shall take all necessary steps to enable him to receive such treatment. When referring a person to another practitioner or to the hospital and specialist services, the practitioner shall give adequate particulars in writing either beforehand or as soon as possible afterwards.

Records

5. In each case in which a practitioner provides treatment under the regulations, he shall keep a record in the form set out in Part IV of the fourth schedule thereto, to be provided by the Council or in a form substantially to the like effect, and shall if required to do so produce such records to the Board, the Council, or a dental officer.

Fees

6.—(1) A practitioner shall be entitled to be paid such fees and other remuneration in respect of any treatment which he is required to give under these terms of service as the Minister may from time to time determine by regulations made under section 40 of the Act.

(2) Except as otherwise provided in the regulations, a practitioner shall not suggest, demand or accept from any person for whom he is providing general dental services or from any other person the payment of any fee or remuneration in respect of any treatment which he is required to give under these terms of service :

Provided that nothing in this sub-paragraph shall deprive the practitioner of any right to recover a reasonable charge from any person in respect of loss of remunerative time resulting from the failure of that person without sufficient excuse to keep an appointment.

Preparation and Submission of Estimates

7.—(1) In accepting an application for treatment, the practitioner shall—

(*a*) complete Part 6 of the dental estimate form and after detaching it, give it to the applicant ;

(*b*) examine the applicant and complete Part 7 of the form ;

(*c*) set out in column 1 of Part 8 of the form the whole of the treatment necessary in his opinion to render the person dentally fit and, if the person is not willing to undergo the whole of such treatment, in column II of that Part particulars of such part of that treatment as the person is willing to undergo.

(2) Where the extent of the treatment which the person is willing to undergo is not beyond that specified in column A of the second schedule to the regulations, the practitioner may proceed with and complete the treatment before sending the dental estimate form to the Board for approval.

(3) Where the treatment which the person is willing to undergo includes treatment in column B of the second schedule, the practitioner shall as soon as may be, and in any case within ten days after making his examination, send the dental estimate form to the Board for approval, and shall not proceed with any treatment other than treatment specified

in column A of the said schedule or such emergency treatment as is referred to in the footnote to the schedule, until such approval is received.

(4)—(*a*) If during the course of treatment in respect of which prior approval of an estimate is not required any variation or addition such as would have made the treatment subject to prior approval is found to be necessary, the practitioner shall immediately notify the Board in writing of the circumstances and shall as soon as reasonably practicable submit an estimate of the whole of the treatment necessary (including that which has been begun) and thereafter the provisions of the last preceding sub-paragraph shall apply to such part of the treatment as has not been commenced.

(*b*) If during the course of treatment in respect of which prior approval of an estimate is required any variation or addition is found to be necessary, the practitioner shall without delay submit an additional estimate and any such estimate shall be subject to the provisions of sub-paragraph (3) of this paragraph.

(5) A practitioner shall complete treatment with reasonable expedition and shall—

(*a*) in the case of treatment to which sub-paragraph (2) of this paragraph applies, not take longer than six months from the date upon which the person is accepted by him for treatment ;

(*b*) in other cases not take longer than six months, or in the case of treatment including extractions and the provision of dentures twelve months, from the date on which the approval of an estimate is received by him :

Provided that these time limits shall not apply when any delay is due to failure on the part of the person concerned to attend for treatment or where the Board is satisfied that there is other sufficient reason.

(6) Upon completing treatment for a person a practitioner shall give a certificate to that effect in Part 5 of the dental estimate form and shall obtain in Part 4 of that form a certificate from the person concerned that treatment has been completed to the best of his belief. Treatment in so far as it relates to dentures shall not be regarded as complete unless the dentures have been delivered to and remain in the possession of the person concerned. The practitioner shall within one month of the completion of the treatment send to the Board the dental estimate form.

Inability or Unwillingness of Practitioner to Complete Treatment

8.—(1) If owing to any cause beyond the control of the practitioner, a practitioner is unable to complete any treatment which has been commenced, he shall forthwith notify the Board in writing of the amount of treatment completed, and of the reason for his inability to complete the remainder, and shall be entitled to such payment as may be approved by the Board in respect of such treatment as has already been provided.

(2) The Council may, on the application of a practitioner, authorise him on such terms as they think just to discontinue any treatment which he has commenced, but before doing so they shall consider any representations which the patient may wish to make with respect to the application. If the application is granted the patient and the Board shall be so informed and the practitioner shall be entitled to such payment as may

be approved by the Board in respect of such treatment as has already been provided.

Supply of Drugs

9.—(1) A practitioner may supply to a person for whom he is providing general dental services such drugs (being drugs specified in the third schedule to the regulations) as are required for immediate administration or application or for use before a supply can be obtained under the next following paragraph ;

(2) A practitioner may supply any other drug which is administered by him in person ;

(3) A practitioner shall supply all requisite drugs which under regulation 5 of the regulations he is required by the Council to supply.

Duty to Prescribe

10. A practitioner shall order, on a form to be provided by the Council for the purpose, such drugs specified in the third schedule to the regulations (other than those supplied under the preceding paragraph) as are requisite for the treatment of any person for whom he is providing general dental services. The order shall be signed by the practitioner or by his deputy or assistant with his own hand and shall not be written in such a manner as to necessitate reference on the part of the person supplying the drugs to a previous order.

The form shall not be used for persons other than those for whom the practitioner is providing general dental services and a separate form shall be used for each person.

Deputies, Assistants and Partners

11.—(1) If a practitioner intends to absent himself from his practice for more than twenty-one consecutive days, he shall notify either the Council or the persons for whom he is providing general dental services of his intended absence and of the practitioner or practitioners, if any, responsible for conducting his practice. If a practitioner intends to absent himself from his practice for more than two months, he shall inform the Council.

(2) A practitioner shall not employ an assistant practitioner for the purpose of the provision of general dental services for a continuous period of three months or more without notifying the Council.

(3) A practitioner shall not without the consent of the Minister employ as a deputy or assistant for the purpose of the provision of general dental services any practitioner who is disqualified for inclusion in the dental list of a Council under section 42 of the Act.

(4) A practitioner acting as deputy shall be entitled to provide treatment at places or at times other than those arranged by the practitioner for whom he is acting, due regard being had to the convenience of the persons for whom the treatment is provided.

(5) A practitioner shall be responsible for all acts and omissions of any practitioner acting as his deputy or assistant.

(6) A deputy or assistant (other than a partner or assistant whose name is included in the dental list) shall, in addition to signing with his own name any dental estimate form or prescription, insert therein the name of the practitioner for whom he is acting as deputy or assistant.

(7) In the case of two or more practitioners practising in partnership or as principal and assistant, treatment may at any time be given by a partner or assistant of the practitioner to whom a person has applied for general dental services, instead of by the practitioner in person, but the practitioner shall take reasonable steps to secure continuity of treatment.

Revision of Terms of Service

12.—(1) The Council may, subject to the approval of the Minister, alter the terms of service as from such date as the Minister may approve by giving notice of the proposed alteration to each practitioner.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or from an amendment of any regulations the Council shall before making an alteration consult with the Local Dental Committee and the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

Withdrawal from Dental List

13. A practitioner shall be entitled at any time to give notice in writing to the Council that he desires to withdraw his name from the dental list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree :

Provided that—

(*a*) If representations are made to the Tribunal under section 42 of the Act that the continued inclusion of a practitioner in the dental list would be prejudicial to the efficiency of the general dental services, he shall not, except with the consent of the Minister and subject to such conditions, if any, as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations, and

(*b*) Where any treatment has been commenced the practitioner shall make satisfactory arrangements for the treatment to be completed.

Disputes, Appeals, etc.

14. The terms of service relating to the following matters are contained in Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948 :—

(*a*) the investigation of questions arising between practitioners and persons for whom they are providing general dental services, and the action which may be taken by the Council as a result of such investigations including the withholding of remuneration from a practitioner where there has been a breach of the terms of service.

(*b*) appeals to the Minister from decisions of the Council and the Board.

(*c*) the investigation of record keeping.

Issue of Notices to Practitioners

15. Any notice which a Council is required or authorised by these terms of service to give to a practitioner shall be sufficiently given if it

has been delivered to the practitioner or sent by post to him at the address which the practitioner last notified the Council as being his address.

Part II

Terms of Service for Dental Practitioners Undertaking to Provide General Dental Services at a Health Centre

Interpretation

1. In these terms of service, except so far as the context otherwise requires, the expression " the regulations " means the National Health Service (General Dental Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

Incorporation of Provisions of Regulations, etc.

2. Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948, affecting the rights and obligations of practitioners shall so far as they are applicable be deemed to form part of these terms of service.

Attendance

3.—(1) A practitioner shall attend at the health centre on such days and at such hours as may be agreed between the Council and the practitioner.

(2) The practitioner shall not, without the permission of the Council, be entitled to provide at the health centre any dental treatment other than general dental services provided under the regulations.

Standard of Service

4. In providing general dental services a practitioner shall employ a proper degree of skill and attention and shall provide the treatment necessary to secure dental fitness which the person concerned is willing to undergo and shall, subject to the provisions of paragraph 13 hereof, satisfactorily complete that treatment.

Acceptance of Applicant for Treatment

5. On accepting an application for treatment the practitioner shall request the applicant to sign such form as may be provided by the Council for the purpose.

Admission of Dental Officers

6. A practitioner shall admit a dental officer at all reasonable times to any surgery or waiting room used by the practitioner at the health centre for the purpose of examining the services provided.

Visiting

7. A practitioner who has undertaken to provide general dental services for any person shall if that person's condition so requires visit and treat him at any place where he may be at the time : Provided that such place is not more distant than five miles, or such other distance as may be agreed by the Council and the practitioner, from the health centre.

Anæsthetics

8. A practitioner shall be responsible for providing the services of either a medical or dental practitioner when necessary for the administration of an anæsthetic in connection with any operation undertaken by him under these terms of service.

Reference to Another Practitioner or Hospital or Specialist Services

9. If the condition of a person requiring general dental services is such as to require treatment which the practitioner is unable to carry out but such treatment to the knowledge of the practitioner can be provided by another practitioner whose name appears on any dental list, or is available as part of the hospital and specialist services provided under Part II of the Act, the practitioner shall inform the said person of the fact and if the person so wishes the practitioner shall take all necessary steps to enable him to receive such treatment. When referring a person to another practitioner or to the hospital and specialist services the practitioner shall give adequate particulars in writing either beforehand or as soon as possible afterwards.

Records

10. In each case in which a practitioner provides treatment under the regulations, he shall keep a record in a form to be provided by the Council for the purpose. The record shall be the property of the Council and shall be made available for inspection to the dental officer at all reasonable times. The practitioner shall also supply to the dental officer such information with regard to the treatment of patients as he may request.

Fees

11.—(1) A practitioner shall be entitled to be paid such remuneration in respect of his obligations under these terms of service as the Minister may from time to time determine by regulations made under section 40 of the Act.

(2) Except as otherwise provided in the regulations a practitioner shall not suggest, demand or accept from any person for whom he is providing general dental services or from any other person the payment of any fee or remuneration in respect of any dental treatment which he is required to give under these terms of service. The practitioner shall account for and pay over to the Council, in such manner as they may require, any fees received by him in respect of dental treatment falling within the provisions of Part V of the regulations.

Consultation with Dental Officer

12. Where a practitioner proposes to provide a service of a kind specified in regulation 21 of the regulations solely on account of the clinical condition of the person concerned and not at his request the practitioner shall give notice of the proposal to the dental officer on a form to be provided by the Council and shall not proceed with any such treatment other than emergency treatment until the dental officer's approval has been received.

Treatment Not Completed

13. If owing to any cause beyond the control of the practitioner he is unable to complete any treatment, he shall forthwith notify the dental officer in writing of the amount of treatment completed, and of the reason for his inability to complete the remainder, and if the treatment is given under Part V of the regulations, he shall be entitled to claim from the person concerned such fees based on the appropriate scale as may be approved by the dental officer in respect of such treatment as has already been provided.

Completion of Treatment

14. A practitioner shall complete treatment with reasonable expedition and shall—

(*a*) in the case of treatment which is referred to in column A of the second schedule to the regulations, not take longer than six months from the date upon which the person is accepted by him for treatment ;

(*b*) in other cases not take longer than six months or in the case of treatment including extractions and the provision of dentures twelve months from the date on which the person is accepted by him for treatment :

Provided that these time limits shall not apply when any delay is due to failure on the part of the person concerned to attend for treatment or where the dental officer is satisfied that there is other sufficient reason for the delay.

Supply of Drugs

15.—(1) A practitioner may supply to a person for whom he is providing general dental services such drugs (being drugs specified in the third schedule to the regulations) as are required for immediate administration or application or for use before a supply can be obtained otherwise under the regulations.

(2) A practitioner may supply any other drug which is administered by him in person.

(3) Any drug supplied under this paragraph shall be obtained by the practitioner in such manner as the Council may require.

Duty to Prescribe

16. A practitioner shall order, on a form to be provided by the Council for the purpose, such drugs specified in the third schedule to the regulations (other than those supplied under the last preceding paragraph), as are requisite for the treatment of any person for whom he is providing general dental services. The order shall be signed by the practitioner with his own hand and shall not be written in such a manner as to necessitate reference on the part of the person supplying the drugs to a previous order. A separate form shall be used for each person.

Termination of Service

17.—(1) Any arrangement between a Council and a practitioner for the provision of general dental services at a health centre may be terminated by either party giving to the other 3 months notice in writing :

Provided that if the practitioner shall fail to comply with any of these terms of service the Council may terminate the arrangement by giving him one month's notice in writing.

(2) The Council may at any time suspend a practitioner from the discharge of his duties, but such suspension shall not affect the right of the practitioner to receive remuneration during the continuance thereof.

Revision of Terms of Service

18. The Council may, with the approval of the Minister, by notice given to each practitioner at a health centre, alter the terms of service as from such date as may be specified in the notice :

Provided that such date shall not, except in the case of an alteration which results from the coming into operation of an Act of Parliament or from an amendment of any regulation, be less than 3 months from the giving of such notice.

Withdrawal or Removal from Dental List

19. A practitioner shall be entitled at any time to give notice in writing to the Council that he desires to withdraw his name from the dental list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree :

Provided that if representations are made to the Tribunal under section 42 of the Act that the continued inclusion of a practitioner in the dental list would be prejudicial to the efficiency of the general dental services, he shall not, except with the consent of the Minister and subject to such conditions if any as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

Disputes, Appeals, etc.

20. The terms of service relating to the following matters are contained in Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948 :—

(*a*) the investigation of questions arising between practitioners and persons for whom they are providing general dental services, and the action which may be taken by the Council as the result of such investigations including the withholding of remuneration from a practitioner where there has been a breach of the terms of service.

(*b*) appeals to the Minister from decisions of the Council.

Issue of Notices to Practitioners

21. Any notice which a Council is required or authorised by these terms of service to give to a practitioner shall be sufficiently given if it has been delivered to the practitioner or sent by post to him at the address which he has last notified the Council as being his address.

SECOND SCHEDULE

Treatment	A Treatment which may be completed without obtaining the prior approval of the Dental Estimates Board	B Treatment for which the prior approval of the Dental Estimates Board is required
I. Diagnosis	1. Clinical examination and report. 2. Tentative treatment, dressings, etc. 3. Radiological examination at a cost not exceeding £2 2*s*. 0*d*. 4. Pathological and bacteriological examinations.	Radiological examination at a cost exceeding £2 2*s*. o*d*.
II. Prophylaxis	Normal scaling and gum treatment.	1. Extensive or prolonged gum treatment including scaling. 2. Gingivectomy.
III. Conservative Treatment.	1. Fillings. 2. Root treatment.	1. Gold fillings.[1] 2. Inlays.[1] 3. Crowns.[1] 4. Apicectomy.
IV. Extractions	Extractions not necessitating the supply of dentures.	1. Extractions necessitating the supply of dentures.[2] 2. Alveolectomy.
V. General Anæsthesia.	All forms.	—
VI. Emergency Treatment.	Treatment for the immediate relief of pain or other urgent symptoms.	—
VII. Repair of Dentures.	Normal repairs.	Repairs under regulation 21 of the regulations.
VIII. Prosthetic Treatment.	—	1. Dentures of plastic. 2. Dentures of vulcanite. 3. Dentures of gold or other metal.[1] 4. Backing and tagging. 5. Obturators. 6. Special appliances, radium applicators, splints, etc.
IX. Orthodontic Treatment.	—	All forms.
X. Oral Surgery.	—	1. Removal of impacted teeth, buried roots, cysts, etc.[2] 2. Treatment of fractured jaws.[2]

[1] This service only to be provided free of cost to a person when it is, in the opinion of the Dental Estimates Board, required owing to the clinical condition of the person concerned.

[2] This service, if emergency treatment, may be commenced without prior approval.

THIRD SCHEDULE

List of Prescribed Drugs

Drugs

Acidum Acetylsalicylicum
„ Benzoicum
„ Boricum
„ Tannici
Alumen
Aqua Chloroformi
„ Menthae Piperitae
Borax
Caffeina
Calcii Lactas
Emulsio Chloroformi
„ Olei Menthae Piperitae
Glycerinum Acidi Tannici
„ Thymolis Compositum
Hydrargyri Subchloridum
Liquor Azorubri
„ Formaldehydi
„ Hydrogenii Peroxidi
„ Iodi Mitis
„ Sodae Chlorinatae Chirurgicalis
Magnesii Sulphas
Mistura Magnesii Hydroxidi
Oleum Caryophylli
Phenacetinum
Phenol
Potassii Chloras
„ Permanganas
Quininae Sulphas
Sodii Bicarbonas
„ Chloridum
„ Perboras
„ Sulphis
Tinctura Pyrethri
Zinci Chloridum
„ Sulphas

Compounded Drugs

Cataplasma—Poultice

Cataplasma Kaolini B.P.

Collutoria—Mouthwashes

Collutorium Acidi Tannici, N. [W.]F.
„ Formaldehydi, N. [W.]F.
„ Phenolis Alkalinum, N.[W.]F.
„ Sodii Chloridi Compositum, N.[W.]F.
„ Thymolis Compositum, N.[W.]F.
„ Zinci Sulphatis et Chloride, N.[W.]F.

Pigmentum—Paint

Pigmentum Arsenicale et Ipecacuanhae, N.[W.]F.

Solvellae—Solution Tablets

Solvella Antisceptica Effervescens, B.P.C.
„ Boracis et Benzaminae Composita, B.P.C.

Tabellae—Tablets

Tabella Acidi Acetylsalicylici, B.P.
„ Acidi Acetylsalicylici Composita, B.P.C.
„ Acidi Acetylsalicylici et Quininae Composita, N.[W.]F.
„ Acidi Ascorbici, B.P. 50 mg.
„ Acidi Nicotinici, B.P. 50 mg.
„ Butobarbitoni, 1½ gr. N.[W.]F.
„ Calciferolis Composita, B.P.C.
„ Calcii Lactatis, B.P.

Tabellae—Tablets (continued)

Tabella Codeinae Composita, B.P.C.
,, Nicotinamidae, B.P.
,, Phenobarbitoni, B.P. 1/4, 1/2, 1 and 2 gr.
,, Sulphathiazolis

Trochisci—Lozenges

Trochiscus Formaldehydi, (Tabella Formaldehydi, B.P.C.)
,, Penicillini, B.P.

FOURTH SCHEDULE

FORMS

Part I
Form of Application for Inclusion in Dental List

To the Executive Council for.....

I,..... of

..... a registered dental practitioner undertake to provide general dental services under the National Health Service Act, 1946, on the terms in operation in the area of the Council and apply to have my name included in the dental list.

Particulars of my usual surgery hours are given below.

Address of Surgery and/or Health Centre	*Days and hours of attendance*	
	Days	*Hours*
(Surgery)	.....	.....
.....	.....	.....
.....	.....	.....
(Health Centre)	.....	.....
.....	.....	.....
.....	.....	.....

I am practising in partnership with.....
of .....

To be completed where appropriate.

I am acting as an assistant to.....
of .....

Signed .....
Date.....

PART II

Here follows "Dental Estimate" Form.

PART III

Here follows form for use in respect of special treatment and appliances involving payment by the patient.

PART IV

Here follows "Dental Record" Form.

EXPLANATORY NOTE

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

The regulations provide for the arrangements which Executive Councils are required to make under Part IV of the National Health Service Act, 1946, for the provision of general dental services. The regulations also provide for the constitution of the Dental Estimates Board for the purpose of approving dental estimates.

(S. I. 1948, No. 506)

The National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948

Made	12*th March*, 1948
Laid before Parliament . .	15*th March*, 1948
Coming into Operation . .	24*th March*, 1948

ARRANGEMENT OF REGULATIONS

PART I—*General*

Regulation

1. Short title and commencement.
2. Interpretation.

PART II—*Medical Practitioners*

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5. Applications for inclusion in a medical list.
6. Reports by Council to Medical Practices Committee.
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PART III—*Medical Practices Committee*

Regulation

8. Appointment of members and tenure and vacation of office.
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12. Selection of practitioner.
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15. Temporary arrangements for practice on retirement, death, etc.
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18. Practitioner's lists.

PART V—*Method of Obtaining Maternity Medical Services*

19. Application for services.
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21. Cases of temporary residence.

PART VI—*Remuneration of Medical Practitioners*

22. Remuneration under distribution scheme.
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PART VII—*Chemists*

24. Terms of service for chemists.
25. Preparation of pharmaceutical list.
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PART VIII—*Medical Practitioners and Chemists*

29. Arrangements for supply by practitioners of drugs and appliances.
30. Publication of particulars of arrangements.
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PART IX—*The Isles of Scilly*

32. Application of regulations to Isles of Scilly.

SCHEDULES

FIRST SCHEDULE—Terms of service for, and remuneration of, medical practitioners and form of application for inclusion in medical list.

SECOND SCHEDULE—Form of certificate to be issued by Medical Practices Committee under Section 35 (9) of the Act.

THIRD SCHEDULE—List of prescribed appliances and chemical reagents.

FOURTH SCHEDULE—Terms of service and forms for chemists.

The Minister of Health, in exercise of the powers conferred on him by sections 32, 33, 34, 35, 38, 39, 45 and 74 of, and the Fifth and Sixth Schedules to the National Health Service Act, 1946,[1] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

Short Title and Commencement

1. These regulations may be cited as the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, and shall come into operation on the twenty-fourth day of March, 1948.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" assistant " means a medical practitioner who acts as an assistant to a medical practitioner ;

" Council " means the Executive Council constituted for any area ;

" drugs " includes medicines and such chemical reagents as are or may be prescribed ;

" Local Obstetric Committee " means a committee recognised by the Minister for the purpose of approving the obstetric experience of a medical practitioner ;

" maternity medical services " means the provision of personal medical services in respect of a confinement by a medical practitioner having obstetric experience ;

" medical card " means a card issued to a person, in a form approved by the Minister, for the purpose of enabling him to obtain or establishing his title to receive medical services other than maternity medical services from a medical practitioner, and shall include any similar card provided for the same purpose under the National Health Insurance (Medical Benefit) Regulations, 1936 [2] ;

" medical officer " means any medical officer appointed by

[1] 9 & 10 Geo. 6, c. 81.

[2] S. R. & O. 1936 (No. 1163) II, p. 1877.

the Minister for a district in which general medical services are provided ;

" practitioner " means a registered medical practitioner and includes a medical practitioner having obstetric experience ;

" medical practitioner having obstetric experience " means a practitioner whose experience in obstetrics is for the time being approved by the Local Obstetric Committee ;

" treatment " means medical attendance and treatment and includes the issue of medical certificates under, or for the purposes of, any enactment, and the keeping and furnishing of any records, and the preparation and transmission of any reports, in accordance with the terms of service set out in Part I of the first schedule to these regulations : Provided that the expression shall not include maternity medical services unless a practitioner has by arrangement undertaken to provide the person concerned with such services.

(2) In these regulations the expression " chemist " means a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933,[1] who provides pharmaceutical services. The regulations shall also apply (except so far as the context may otherwise require) to any other person, firm or body corporate (other than a medical or dental practitioner) providing pharmaceutical services as if that person, firm or body were a chemist as so defined.

(3) The Interpretation Act, 1889 [2] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Part II

Medical Practitioners

Terms of Service for Medical Practitioners

3. The arrangements which a Council is required by section 33 of the Act to make with practitioners for the provision of personal medical services shall incorporate the terms of service contained or referred to in Part I of the first schedule to these regulations.

Medical List

4.—(1) The Council shall prepare a list to be called " the medical list " of the practitioners who are entitled to be included in the list.

(2) The medical list shall include in a separate part the names of

[1] 23 & 24 Geo. 5, c. 25. [2] 52 & 53 Vict., c. 63.

practitioners having obstetric experience who have undertaken to provide maternity medical services and shall show by a distinguishing mark or otherwise which of them are included in the list for the purpose of providing maternity medical services only.

(3) The medical list shall contain in addition to the names of medical practitioners :—

(*a*) the private address and the address of any surgery, health centre or other place, at which the medical practitioner undertakes to attend for the purpose of treating persons receiving general medical services ;

(*b*) particulars of the days and hours at which he undertakes to be in attendance at each place ;

(*c*) where two or more medical practitioners practise in partnership, the names of the partners ;

(*d*) where the practitioner is acting as an assistant, the name and address of the principal ;

(*e*) any conditions as to the area of practice attached to the granting of an application by the Medical Practices Committee or, on appeal, by the Minister,

and may, if the Council think fit, be so arranged as to show the part of the area in which each medical practitioner will provide treatment.

(4) Copies of the medical list shall be available for inspection at the office of the Council and at such other places as appear to the Council to be convenient for informing all persons interested and shall be kept revised up to date.

(5) The Council shall send a copy of the medical list to the Minister, the Medical Practices Committee, the Local Medical Committee, the Local Obstetric Committee and the Local Pharmaceutical Committee, and shall within seven days inform each of them of any alteration which may from time to time be made therein. The Council shall also send a copy of the list to the local health authority, the Regional Hospital Board, the Hospital Management Committees of hospitals serving the area, the Board of Governors of any teaching hospital in the area, and to any person under contract with the Council to provide pharmaceutical services and at intervals of not more than three months shall notify them of any alteration made in the medical list : Provided that in the case of persons providing pharmaceutical services, Boards of Governors and Hospital Management Committees the Council may send to them the portions of the list which appear to the Council to concern them.

Applications for Inclusion in a Medical List

5.—(1) Application by a practitioner for inclusion in a medical list shall be made by delivering or sending the application by post

to the Council in the form set out in Part III of the first schedule to these regulations, or in a form to the like effect.

(2) On receipt of an application from a practitioner, other than a practitioner entitled to inclusion by virtue of sub-section (1) of section 34 of the Act, for inclusion in the medical list, the Council shall transmit the application to the Medical Practices Committee, together with a report on a form approved by the Committee.

Reports by Council to Medical Practices Committee

6.—(1) Every Council not later than the 31st December, 1948, and thereafter once in every year or at such more frequent intervals as the Medical Practices Committee may require shall furnish the Committee with such information as may be required by the Committee to enable them to judge the adequacy of the medical services in the area of the Council or any part thereof.

(2) On receipt of notice of death or on the withdrawal or removal of the name of a practitioner from the medical list the Council shall forthwith inform the Medical Practices Committee and shall furnish to that Committee a report as to the need for filling the vacancy.

Advertisement of Vacancies

7. A Council may give public notice of any vacancy for a medical practitioner in their area by advertisement in the press or otherwise.

Part III

Medical Practices Committee

Appointment of Members and Tenure and Vacation of Office

8.—(1) The following provisions shall apply to the members of the Medical Practices Committee (in this part of these regulations referred to as " the Committee ").

(2)—(*a*) The first chairman of the Committee shall be appointed for a period ending on the 31st day of March, 1950.

(*b*) Of the eight original members, other than the chairman, two shall be appointed for a period ending on the 31st day of March, 1950, three for a period ending on the 31st day of March, 1951, and the remainder for a period ending on the 31st day of March, 1952.

(*c*) Subject as herein provided members shall be appointed for a period of three years expiring on the 31st day of March in any year.

(*d*) A member may be re-appointed to the Committee on the expiration of his term of office.

(*e*) A member may resign from the Committee by giving notice in

writing to the Minister : Provided that a member who is appointed as being a person actively engaged in medical practice shall be deemed to have resigned if he ceases to be so engaged.

(*f*) A person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor was appointed.

Procedure for the Determination of Applications

9.—(1) Subject to the next following paragraph a decision of the Committee to grant an application for inclusion in the list on the ground that the number of practitioners undertaking to provide general medical services in the area or part of an area is not already adequate shall be given in such manner as the Committee may determine.

(2) Subject to paragraph (4) of this regulation any decision of the Committee involving the refusal of an application or the granting of an application subject to conditions, shall be the decision of the majority of members present and voting at a meeting of the Committee and the Committee shall inform the applicant of his right of appeal to the Minister.

(3) If the Committee are of opinion that one or more practitioners are required for the area or part of the area concerned and the number of applicants exceeds the number of practitioners required, they shall :—

(*a*) consider the views expressed by the Council with respect to the applications ;

(*b*) if they think fit, give to the applicants or any of them the opportunity to attend before them and make representations in person or to make written representations ;

(*c*) select the applicant or applicants whose applications are to be granted and forthwith inform them, the Council and the Minister of their decision, and

(*d*) inform any practitioner whose application is refused or granted subject to conditions of his right of appeal to the Minister.

(4) Four members shall form a quorum and in the case of equality of votes the chairman shall have a second or casting vote.

Appeal to the Minister

10.—(1) A practitioner may appeal to the Minister against the refusal of an application for inclusion in the medical list or the granting of such application subject to conditions by sending to the Minister notice of appeal within seven days, or such longer period

as the Minister may allow, from the date on which the notice of the decision of the Committee is given to him.

(2) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(3) If it appears to the Minister that the appeal is of such a nature that it can properly be determined without an oral hearing he may dispense with an oral hearing, and determine the appeal summarily and shall communicate his decision to the appellant, the Committee, and the Council.

(4) If the Minister is of opinion that an oral hearing is required, he shall appoint one or more persons to hear the appeal.

(5) An oral hearing shall take place at such time and place as the Minister may direct and notice of the hearing shall be sent by post to the appellant, the Committee, the Council and any practitioner whose application for appointment to the vacancy to which the application relates was granted, not less than seven days before the date fixed for the hearing.

(6) The appellant and any of the parties to whom notice of the hearing is required to be given may attend and be heard in person or by counsel or solicitor or other representative. The Committee and the Council may be represented at the hearing by any duly authorised officer or member or by counsel or solicitor.

(7) Subject as aforesaid the procedure at the oral hearing shall be such as the person or persons hearing the appeal may determine.

(8) The person or persons hearing the appeal shall as soon as may be after the hearing draw up a report, stating the relevant facts and his or their conclusions, and the Minister after taking such report into consideration shall give his decision and communicate it to the appellant, the Committee, the Council and such practitioners as have under the foregoing provisions of this regulation been served with notice of the hearing.

Certificate that Transaction Does Not Involve Sale of Goodwill

11. A certificate issued by the Medical Practices Committee under section 35 (9) of the Act, shall be in the form set out in the second schedule to these regulations or in a form to the like effect.

Part IV

Method of Obtaining General Medical Services other than Maternity Medical Services

Selection of Practitioner

12. Application by a person for acceptance by a practitioner for inclusion in his list shall be made by delivering to the practitioner

either a medical card or a signed form of application for acceptance on his list :

Provided that :—

(1) any person, entitled immediately before the appointed day to medical benefit under the National Health Insurance Acts, 1936 [1] to 1941,[2] and then included in the list of a practitioner who, as from the appointed day, provides general medical services other than maternity medical services, shall be deemed to be included in the list of that practitioner under these regulations unless and until he has chosen another practitioner or given notice in writing to the Council of his desire not to be so included ;

(2) any person entitled immediately before the appointed day to receive medical benefit under the National Health Insurance Acts, 1936 to 1941, through an institution approved for the purpose of section 38 of the National Health Insurance Act, 1936, shall,

(*a*) if the institution immediately before the appointed day employs a single practitioner who as from that day provides general medical services other than maternity medical services, be deemed to be included in the list of that practitioner,

(*b*) if the institution immediately before the appointed day employs two or more practitioners who as from that day provide general medical services other than maternity medical services, be deemed to be included in the list of such one of those practitioners as he may be assigned to by the institution,

unless and until the person concerned has chosen another practitioner or given notice in writing to the Council of his desire not to be so included.

Allocation Scheme

13.—(1) The Council after consultation with the Local Medical Committee shall prepare a scheme (hereinafter referred to as " the allocation scheme ") which shall provide for the following matters :—

(*a*) the constitution of a committee of the Council (hereinafter referred to as " the allocation committee ") consisting of equal numbers of persons appointed by the Council and the Local Medical Committee respectively and of a chairman, and the assignment to such committee of such powers and duties relating to the administration of the scheme as may be specified therein ;

[1] 26 Geo. 5 & 1 Edw. 8, c. 32. [2] 4 & 5 Geo. 6, c. 39.

(*b*) the steps to be taken by a practitioner to enable a person, who has applied for and been refused acceptance by him, to be accepted by or assigned to a practitioner ;

(*c*) the provision of any treatment required by the person pending such acceptance or assignment ;

(*d*) the period within which notice of acceptance of a person is to be given to the Council by any practitioner ;

(*e*) the assignment to a practitioner of any person who applies for assignment ;

(*f*) the provision by a practitioner of emergency treatment in cases where neither the practitioner normally responsible for providing treatment nor his deputy is available and where such treatment is immediately necessary owing to an accident or other emergency ;

(*g*) the restrictions, if any, to be imposed on the right of a practitioner to require the removal of a person from his list where the removal would be likely to involve hardship owing to the state of that person's health ;

(*h*) such incidental or consequential provisions as may be deemed necessary.

(2) The allocation scheme shall also provide for a limit to be placed on the number of persons who may be placed on the list of a practitioner and, except in cases in which owing to special circumstances the Council with the approval of the Minister otherwise permit, the scheme shall not permit the following maximum numbers to be exceeded, namely :—

(*a*) in the case of a practitioner carrying on practice otherwise than as an assistant or in partnership 4,000 ;

(*b*) in the case of two or more practitioners carrying on practice in partnership 5,000 on the list of any partner and an average of 4,000 on the list of both or all the partners.

(3) Where a practitioner or a partnership of practitioners employs one or more permanent assistants, the number of persons for whose treatment the practitioner or practitioners may be responsible may be increased to an extent allowed by the scheme not exceeding 2,400 in respect of each assistant.

(4) The allocation scheme shall also provide for enabling a practitioner, the number of persons on whose list exceeds the limit, to make arrangements within a specified period for bringing the number within the limit, either by reducing the number of persons on his list or by employing an assistant or otherwise, and may include provision for securing the necessary consultation and co-

ordination in this respect between the Council and Councils in adjoining areas.

(5) The allocation scheme may also provide for the application with the necessary modifications of the provisions of regulation 14 (2) of these regulations to the case of :—

(*a*) a practitioner whose name is included in the medical list in respect of more than one address and who ceases to practise at one of such addresses ;

(*b*) a practitioner who on ceasing to employ a permanent assistant reduces the number of persons on his list ; and

(*c*) a practitioner who on entering into partnership with another practitioner reduces the number of persons on his list.

(6) In the event of the Council and Local Medical Committee failing to agree on any provision of the allocation scheme the matter shall be referred to the Minister, whose determination shall be final.

(7) The provisions of the allocation scheme shall be subject to the approval of the Minister.

(8) The Council, after consultation with the Local Medical Committee, may from time to time amend the allocation scheme subject to the approval of the Minister. If the Local Medical Committee require any amendment, the allocation scheme may, in default of agreement between the Council and the Committee, be amended by the Minister.

(9) If the Council fail to submit an allocation scheme to the Minister within such time as he may direct, the Minister may make a scheme and such scheme shall have effect within the area of the Council as though it had been prepared by the Council and approved by the Minister.

Change of Practitioner

14.—(1) A person may at any time make application for acceptance by a practitioner notwithstanding that he is at the date of application included in the list of another practitioner, and if accepted he shall forthwith be entitled to obtain treatment from the practitioner to whom application has been made.

(2) On the death or on the removal or withdrawal from the medical list of a practitioner, the Council shall give to the persons on the list of such practitioner notice of their right to apply to another practitioner for acceptance : Provided that if the Council and Local Medical Committee are of opinion that one or more practitioners should be regarded as succeeding in whole or in part to the practice of a practitioner whose name has ceased to be included in the medical list, the Council shall inform any person

concerned on the list of the last mentioned practitioner of the name and address of the successor in whose list it is considered he may wish to be included. The notice shall state that the successor is willing to accept such person for treatment and the person shall be deemed to be included in the list of that practitioner as from the date of the notice unless and until he has chosen another practitioner, or given notice in writing to the Council of his desire not to be so included.

Temporary Arrangements for Practice on Retirement, Death, &c.

15.—(1) For the purpose of securing the treatment of persons on the list of a practitioner whose name has ceased to be included in the medical list pending their selection or transfer to the list of another practitioner, the Council may, after consultation with the Local Medical Committee, appoint one or more practitioners to undertake the treatment of such persons and may make such arrangements as they think fit for the accommodation and other needs of a practitioner so appointed: Provided that where the name of a deceased practitioner ceases to be included in the medical list, and any person within seven days of the date of death makes application to the Council on behalf of the estate of the deceased practitioner and the Council are satisfied that he is acting in the interests of the estate, they may, instead of making an appointment under this paragraph, authorise such person to appoint one or more practitioners to undertake as the deputy or deputies of the deceased practitioner the treatment of persons who were on the list of the deceased practitioner immediately before his death.

(2) An appointment of any practitioner under this regulation shall be for such period as the Council think fit not exceeding, except in special circumstances, two months and shall be subject to the condition that the practitioner agrees in writing to be bound by the terms of service which were applicable to the practitioner whose name has ceased to be included in the medical list. During the period of any such appointment the name of any person who has not been transferred to another practitioner shall be deemed to remain on the list of the practitioner whose name has ceased to be included in the medical list.

Removal of Person from Practitioner's List

16. A person who no longer wishes to avail himself of general medical services, may at any time give notice to the Council that he wishes his name to be removed from a practitioner's list, and at the expiration of fourteen days from the date of the receipt

of the notice the Council shall remove the name and inform the person and practitioner.

Cases of Temporary Residence

17.—(1) A person who is residing temporarily in any district and is not on the list of a practitioner providing general medical services in that district may apply to any practitioner to be accepted by him as a temporary resident. In such a case his name shall not be removed from the list of any practitioner in which it is already included.

(2) A person moving from place to place who is for the time being not resident in any place may apply to any practitioner to be accepted by him as a temporary resident.

(3) For the purpose of this regulation the residence of a person shall be deemed to be temporary if at the time of his arrival in a district he intends to remain there for a period of not more than three months: Provided that if his stay in such district extends to more than three months his residence shall at the end of that period cease to be regarded as temporary.

Practitioners' Lists

18.—(1) The Council shall prepare and keep revised up to date a list of persons for whose treatment each practitioner is for the time being responsible and shall from time to time furnish the practitioner with information in such form as the Minister may determine with regard to persons included in or removed from that list.

(2) Any deletion, otherwise than by reason of death, shall take effect as from the date on which notice of the deletion is sent by the Council to the practitioner or from such other date, not being earlier than that date, as may be specified in the notice. Any deletion by reason of death shall take effect as from the date on which that person died.

Part V

Method of Obtaining Maternity Medical Services

Application for Services

19. A person who after diagnosis of pregnancy by a medical practitioner requires the provision of maternity medical services, may arrange for the provision of such services either—

(*a*) with the practitioner in whose list her name is included being a practitioner having obstetric experience or

(*b*) with any other practitioner on the medical list having obstetric experience.

Change of Practitioner

20.—(1) If a practitioner ceases to provide maternity medical services he shall give to any person for whom he has arranged to provide maternity medical services notice of the fact and of her right to make fresh arrangements with a practitioner having obstetric experience.

(2) A practitioner who has arranged to provide maternity medical services for any person may agree with that person to terminate the arrangement. Such person may then make fresh arrangements with another practitioner having obstetric experience.

(3) If for any reason a practitioner who has arranged to provide maternity medical services for any person or the person concerned desires to terminate the arrangements, either of them may, in default of agreement, apply to the Council for permission to terminate the arrangements. After hearing such representations as the practitioner and the person concerned may make, the Council may terminate the arrangements and give notice to such person of her right to make fresh arrangements.

Cases of Temporary Residence

21. If a person requires maternity medical services and is a temporary resident, she may arrange for the provision of such services, as she may require during her period of temporary residence, with any practitioner having obstetric experience who is on the medical list for the area. Arrangements made under this regulation shall not terminate any arrangements made under regulation 19 of these regulations.

Part VI

Remuneration of Practitioners

Remuneration Under Distribution Scheme

22.—(1) The sum credited in respect of any year to a Council under regulations made by the Minister for such payments by way of remuneration and allowances to practitioners as are referred to in paragraph 1 of Part II of the first schedule to these regulations shall be distributed by the Council in accordance with a scheme made by them (hereinafter referred to as a " distribution scheme "), which shall deal also with the other matters referred to in paragraph 2 of the said Part.

(2) The distribution scheme shall be prepared by the Council after consultation with the Local Medical Committee, and in the event of the Council and the Committee failing to agree on any provision of the scheme the matter shall be referred to the Minister whose determination shall be final.

(3) The provisions of the distribution scheme shall be subject to the approval of the Minister.

(4) The Council, after consultation with the Local Medical Committee, may from time to time amend the distribution scheme subject to the approval of the Minister. If the Local Medical Committee require any amendment, the distribution scheme may, in default of agreement between the Council and the Committee, be amended by the Minister.

(5) If the Council fail to submit a distribution scheme to the Minister within such time as he may direct, the Minister may make a scheme and such scheme shall have effect within the area of the Council as though it had been prepared by the Council and approved by the Minister.

Other Remuneration

23. Practitioners providing general medical services shall be entitled, in addition to any payments made under the distribution scheme, to receive from the Council payments in respect of the matters specified in paragraph 3 of Part II of the first schedule to these regulations at such rates and subject to such conditions as the Minister may determine after consultation with such organisations as he may recognise as representative of the medical profession.

Part VII

Chemists

Terms of Service for Chemists

24. The arrangements which a Council is required by section 38 of the Act to make for the supply of drugs and medicines and prescribed appliances to persons receiving general medical services, and of prescribed drugs and medicines to persons receiving general dental services, shall incorporate the terms of service contained or referred to in Part I of the fourth schedule to these regulations.

Preparation of Pharmaceutical List

25.—(1) The Council shall prepare a list, to be called "the pharmaceutical list," of the names and places of business of the chemists who are entitled to be included in the list, and the list

shall indicate whether they have undertaken to supply drugs or appliances or both and shall distinguish those who are entitled to dispense medicines and shall also indicate the days and hours during which the several places of business are open.

(2) Application by a chemist for inclusion in a pharmaceutical list shall be made by delivering or sending the application by post to the Council in the form set out in Part II or Part III of the fourth schedule to these regulations, or in a form to the like effect.

(3) Copies of the pharmaceutical list shall be available for inspection at the office of the Council and at such other places as appear to the Council to be convenient for informing all persons interested and shall be kept revised up to date.

(4) The Council shall send a copy of the pharmaceutical list to the Minister, the Local Medical, Pharmaceutical and Dental Committees, and shall within seven days inform each of them of any alteration which may from time to time be made therein. The Council shall also send a copy of the list to each practitioner providing general medical or general dental services, or if the list is arranged by reference to districts, that portion of the list which relates to the district in which such practitioner carries on a general medical or general dental practice, and at intervals of not more than three months shall notify each such practitioner of any alterations made in the list or the relevant portion of the list.

Schemes for Securing Proper Pharmaceutical Service

26.—(1) The Council after consultation with the Local Pharmaceutical Committee shall prepare schemes for testing the quality and amount of the drugs and appliances supplied and for securing that one or more places of business on the pharmaceutical list in each district shall at all reasonable times be open and the latter scheme shall specify the days and hours during which such places shall be open.

(2) In the event of the Council and the Committee failing to agree on any provision of the schemes, the matter shall be referred to the Minister whose determination shall be final.

(3) The provisions of any such scheme shall be subject to the approval of the Minister.

(4) The Council after consultation with the Local Pharmaceutical Committee may from time to time amend any such scheme subject to the approval of the Minister. If the Local Pharmaceutical Committee require any amendment, such scheme may, in default of agreement between the Council and the Committee, be amended by the Minister.

(5) The number of tests to be taken annually in pursuance of a scheme for testing the quality and amount of drugs and appliances supplied shall be such as the Minister, after consultation with the Council and the Local Pharmaceutical Committee, may from time to time determine.

Prescribed Appliances and Reagents

27.—(1) The appliances to be supplied to persons receiving general medical services shall be the appliances specified in Part I of the third schedule to these regulations.

(2) The chemical reagents to be supplied to persons receiving general medical services shall be those specified in Part II of the third schedule to these regulations.

Prices and Standards of Drugs and Appliances

28. For the purpose of enabling arrangements to be made for the supply of drugs and appliances of proper quality, the Minister shall cause to be prepared a statement (in these regulations referred to as " the Drug Tariff ") which shall include :—

(*a*) the prices on the basis of which the payment for drugs and appliances ordinarily supplied is to be calculated ;

(*b*) the method of calculating the payment for drugs not mentioned in the Drug Tariff ;

(*c*) the method of calculating the payment for containers ;

(*d*) the dispensing or other fees payable in respect of the supply of drugs and appliances ;

(*e*) the standards of quality for drugs and appliances.

The prices referred to in paragraph (*a*) of this regulation may be fixed prices or may be subject to monthly or other periodical variations to be determined by reference to fluctuations in the cost price of drugs and appliances.

Part VIII

Medical Practitioners and Chemists

Arrangements for Supply by Practitioners of Drugs and Appliances

29.—(1) A person who—

(*a*) satisfies the Council that he would have serious difficulty in obtaining any necessary drugs or appliances from a chemist by reason of distance or inadequacy of means of communication, or

(*b*) is resident in an area which in the Council's opinion is rural in character, at a distance of more than one mile

from the premises of any registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933,

may request the practitioner on whose list he is included to supply him with drugs and appliances, and if the practitioner indicates his willingness to supply them the Council shall arrange with him to do so.

Where, in the case of a person to whom sub-paragraph (*b*) applies, the practitioner has not indicated his willingness to supply drugs and appliances and the person does not, after enquiry by the Council, indicate within seven days whether he desires to be supplied by the practitioner or by a chemist, the Council shall decide themselves how the supply shall be given.

A person to whom sub-paragraph (*b*) applies, who is supplied with drugs and appliances by a chemist, may at any time give to the Council notice of his desire that the supply should in future be provided by the practitioner and the Council may thereupon take such action as is appropriate under this regulation.

(2) The Council may require a practitioner who has not indicated his willingness to supply drugs and appliances to any person to whom this regulation applies to undertake such supply :

Provided that the practitioner shall not be required to supply such drugs and appliances if he satisfies the Council or, on appeal, the Minister, that he is not in the habit of supplying drugs for his patients, or in the case of a person to whom sub-paragraph (*b*) of paragraph (1) applies, that the person can with reasonable facility obtain drugs and appliances from a chemist.

A practitioner shall be entitled to receive reasonable notice from the Council that he is required to undertake the supply of drugs and appliances, or that such supply is to be discontinued.

(3) Notwithstanding anything contained in this regulation where a drug or appliance is one for which a practitioner is entitled to receive extra payment if he supplies it, he may, with the patient's consent, instead of supplying it himself, issue a prescription for that purpose.

(4)—(*a*) The Council may, if they think fit, and shall, if requested to do so by the Local Medical or Local Pharmaceutical Committee, constitute a committee (in these regulations referred to as " the dispensing committee ") and shall delegate to that committee, subject to such conditions as they may impose, the powers conferred on the Council by this regulation.

(*b*) The Council may make, vary or revoke standing orders with regard to the term of office of members of the dispensing committee,

the procedure of that committee and the making of reports of their proceedings to the Council.

Publication of Particulars of Arrangements

30. The Council shall cause to be published, in such manner as appears to them best calculated to inform all persons interested, particulars of the arrangements made by the Council, including a statement of the places where copies of the terms of service for practitioners and chemists and copies of the medical list and of the pharmaceutical list may be seen and where any forms of application are available and any other particulars which the Council think proper.

Exercise of Choice of Practitioner in Certain Cases

31. The right to choose the person by whom general medical services or pharmaceutical services under Part IV of the Act are to be provided shall be exercised—

(*a*) on behalf of any person under the age of sixteen by the mother, or in her absence, the father, or in the absence of both parents the guardian or other person who has the care of the child ; and

(*b*) on behalf of any other person who on account of old age, sickness or other infirmity is incapable of choosing a person to provide any of the services by a relative or any person who has the care of such person.

Part IX

The Isles of Scilly

Application of Regulations

32. These regulations shall extend to the Isles of Scilly subject to the following exceptions, adaptations and modifications :—

(i) Any provision in the regulations requiring consultation with, or the agreement or opinion of, the Local Medical or Pharmaceutical Committee in respect of any matter shall not apply to the Executive Council of the Isles of Scilly unless a Local Medical or Pharmaceutical Committee has been formed for the Isles and recognised by the Minister under Section 32 of the Act ;

(ii) For sub-paragraph (*a*) of paragraph (1) of regulation 13 there shall be substituted the following provision :—

" (*a*) the constitution of a committee of the Council (hereinafter referred to as ' the allocation committee ')

consisting of such members of the Council and such members appointed by the Local Medical Committee (if a Local Medical Committee is formed for the Isles and recognised by the Minister) as the Council think fit and the assignment to such committee of such powers and duties relating to the administration of the scheme as may be specified therein."

FIRST SCHEDULE

Part I

Terms of Service for Medical Practitioners

Interpretation

1. In these terms of service, unless as the context otherwise requires, " patient " means a person for whose treatment a practitioner is responsible under paragraph 3 of these terms of service and " the regulations " means the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948, and other words and expressions have the same meaning as in the regulations.

Incorporation of Provisions of Regulations, etc.

2. Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948,[1] affecting the rights and obligations of medical practitioners and the provisions of any allocation or distribution scheme made under the regulations and in force in the area, shall be deemed to form part of these terms of service.

Persons for whose Treatment the Practitioner is Responsible

3.—(1) The persons for whose treatment a practitioner is responsible are :—

(*a*) all persons whom he has accepted or agreed to accept for inclusion in his list and who have not been notified to him by the Council as having ceased to be on his list.

(*b*) all persons whom he has accepted or agreed to accept as temporary residents.

(*c*) all persons who have been assigned to him in accordance with the allocation scheme and who have not been notified to him by the Council as having ceased to be on his list.

(*d*) all persons for whom he may be required under the terms of the allocation scheme, to provide treatment pending their acceptance by or assignment to a practitioner or to provide treatment in case of accident or other emergency.

(*e*) all persons for whose treatment the practitioner is responsible under paragraph 5 of these terms of service.

(2) A practitioner having obstetric experience shall be responsible for the provision of maternity medical services for all persons for whom he has undertaken to provide such services.

[1] S. I. 1948, No. 507.

(3) A practitioner who is appointed under regulation 15 of the regulations to undertake the treatment of persons on the list of a practitioner whose name ceases to be included in the medical list shall, for the period of his appointment, be responsible for the treatment of any person on that list who has not been transferred to the list of another practitioner.

(4) Notwithstanding anything contained in this paragraph, a practitioner shall not be responsible under these terms of service for the treatment in hospital of a person admitted thereto for treatment unless he is a member of the staff of that hospital.

(5) The acceptance of an applicant shall be signified by the signing of his medical card, or a form of application for acceptance on a practitioner's list, by the practitioner or his partner, assistant or deputy duly authorised in that behalf and the sending of the card or form to the Council within such period as may be specified in the allocation scheme :

Provided that a partner, assistant or deputy signing such card or form on behalf of the practitioner shall also add the practitioner's name.

Right of Practitioner to have Patient Removed from his List

4. Subject to such restrictions, if any, as may be imposed by the allocation scheme, a practitioner is entitled to have the name of any person on his list removed therefrom by giving notice at any time to the Council and at the expiration of seven days from the receipt of such notice by the Council the name of the person shall be removed from the practitioner's list.

Evidence of Person's Title to obtain Treatment

5.—(1) A practitioner is entitled to require a person claiming to be on his list and applying for treatment regarding whose identity he has reasonable doubts to produce his medical card.

(2) (*a*) If such person fails on request to produce his medical card, the practitioner is required to give any necessary treatment (including the supply of any drugs or appliances which he would be required himself to supply to a person on his list), but the practitioner may demand and accept from the applicant a reasonable fee for any treatment given, including any drugs or appliances supplied, provided that he renders the applicant an account or, if no account is rendered, gives him a receipt. The practitioner may order any drug or prescribed appliance so as to enable the person to obtain the drug or appliance free of cost.

(*b*) If the applicant applies to the Council for a refund within fourteen days after the payment of the fee (or such longer period not exceeding one month as may be allowed by the Council if they are satisfied that the failure to make application within the period of fourteen days was occasioned by some reasonable cause), and the Council are satisfied that he was on the practitioner's list, the Council may recover the fee from the practitioner by deduction from his remuneration or otherwise and shall repay to the applicant the amount of the fee. If the practitioner has supplied any drug or appliance for which, in the case of a person on

his list, he would have been entitled to payment from the Council, the Council shall credit him with the payment to which he would have been so entitled.

Range of Service

6.—(1) A practitioner is required to render to his patients all proper and necessary treatment. Such treatment includes the administration of anæsthetics or the rendering of any other assistance at an operation performed by and of the kind usually performed by a general medical practitioner if the administration of the anæsthetic or the rendering of such other assistance does not involve the application of special skill or experience of a degree or kind which general practitioners as a class cannot reasonably be expected to possess. Subject to sub-paragraph (3) of this pragraph the treatment to be so provided does not include :—

(*a*) services which involve the application of such special skill or experience as aforesaid ;

(*b*) the administration of an anæsthetic at an operation performed by a practitioner providing maternity medical services ;

(*c*) maternity medical services, unless the practitioner having obstetric experience has, by arrangement with his patient, undertaken to provide her with such services.

(2) In the case of maternity medical services all proper and necessary treatment shall include advice in regard to ante-natal supervision ; ante-natal care including an initial medical and obstetric examination and an examination at the thirty-sixth week of pregnancy or at any other time the practitioner thinks necessary ; attendance at an abortion or other emergency in connection with a pregnancy if the practitioner is summoned on behalf of the patient ; attendance at the confinement after the twenty-eighth week of pregnancy, if in the opinion of the practitioner it is required or if he is summoned to the confinement by the midwife in attendance ; medical supervision of the mother and child for a period of fourteen days after confinement, and post-natal care, including a medical and pelvic examination of the mother at or about six weeks after confinement. The practitioner having obstetric experience shall also comply with any request made by the general practitioner on whose list the name of the person receiving maternity medical services is included, to examine or give any other assistance to that person and her child if, in the opinion of the practitioner having obstetric experience, it is necessary :

Provided that nothing in this sub-paragraph shall affect the responsibility of the practitioner on whose list the name of the person is included for treatment of a kind usually provided by general medical practitioners which is necessary for her general health.

(3) In the case of emergency the practitioner is required to render whatever services are, having regard to the circumstances, in the best interests of the patient.

(4) In determining whether a particular service is a service involving the application of such special skill and experience as aforesaid, regard is to be had to the question whether services of the kind are or are not usually undertaken by general practitioners practising in the area in which the question arose.

Duties of Practitioner

Reference to Hospital and Specialist Services, Local Health Authority Services or Maternity Medical Services

7.—(1) If the condition of the patient is such as to require treatment which is not within the scope of the practitioner's obligations under these terms of service, but such treatment is to the knowledge of the practitioner, available as part of the hospital and specialist services, the practitioner shall inform the patient of the fact and if the patient so wishes the practitioner shall take all necessary steps to enable him to receive such treatment. When referring a patient to the hospital and specialist services the practitioner shall give adequate particulars in writing either beforehand or as soon as possible afterwards. The practitioner shall also give his patients such advice or assistance as he may consider appropriate to enable them to take advantage of the local health authority services and maternity medical services.

Supplementary Ophthalmic Services

(2) If the condition of the patient is such as to require supplementary ophthalmic services, the practitioner shall if so desired furnish him with a recommendation for such services on a form provided by the Council for the purpose.

Surgery Hours

(3) A practitioner is required to attend and treat at the places, on the day and at the hours to be arranged to the satisfaction of the Council, any patient who attends there for that purpose but he may, with the consent of the Council or, on appeal, of the Minister, alter the places, days or hours of his attendance and shall in that event take such steps as the Council consider necessary to bring the alteration to the notice of his patients.

Surgery Accommodation

(4) A practitioner is required to provide proper and sufficient surgery and waiting-room accommodation for his patients, having regard to the circumstances of his practice.

Inspection of Surgery and Waiting-room Accommodation

(5) The practitioner on receipt of a written request shall at all reasonable times admit any member or officer of the Council or the Local Medical Committee authorised for the purpose by the Council to any surgery or waiting-room of the practitioner for the purposes of inspecting the said surgery or waiting-room.

Visiting

(6) A practitioner is required to visit and treat a patient whose condition so requires at any place where under the terms of his application for inclusion in the medical list he is under an obligation to visit such patient.

Medical Certificates

(7) A practitioner is required to issue to his patients free of charge any certificates reasonably required by them under or for the purposes

of any enactment and any certificate which a practitioner is required to issue for the purposes of the National Insurance Acts, 1946,[1] shall be issued in accordance with any regulations made under those Acts.

Anæsthetics

(8) (i) A practitioner, except when providing maternity medical services, is responsible for providing the services of another practitioner for the administration of an anæsthetic, when necessary, in connection with any operation on his patient undertaken by him under these terms of service, whenever such administration does not involve the application of special skill or experience of a degree or kind which general practitioners as a class cannot reasonably be expected to possess.

(ii) A practitioner providing maternity medical services is responsible for providing the services of another practitioner for the administration of an anæsthetic when necessary in connection with any operation performed by him on his patient and undertaken by him under these terms of service.

Duty to Supply Drugs and Appliances

(9) (i) A practioner is required to supply to a patient such drugs and appliances as are required for immediate administration or application or for use before a supply can be obtained otherwise under the regulations.

(ii) A practitioner may supply any other drug which is administered by him in person.

(iii) A practitioner shall supply all requisite drugs and prescribed appliances which, under the regulations, he is required by the Council to supply to a patient.

(iv) A drug supplied by a practitioner unless administered in person shall be supplied in a suitable container.

Duty to Prescribe. Prohibition of "Rep. Mist."

(10) A practitioner is required to order, on a form provided by the Council for the purpose, such drugs and prescribed appliances (other than those supplied under the preceding sub-paragraph) as are requisite for the treatment of any patient. The order shall be signed by the practitioner with his own hand and shall not be written in such a manner as to necessitate reference on the part of the person supplying the drugs or appliances to a previous order. The forms so provided shall not be used for persons other than the patients who are under treatment by him and a separate form shall be used for each patient.

Prescriptions for Tests

(11) A practitioner shall comply with any reasonable request by the Council to furnish orders on a form provided by the Council for drugs and prescribed appliances for the purposes of any scheme for testing drugs and appliances made under the regulations.

Records

(12) A practitioner is required :—

(*a*) to keep records of the illnesses of his patients and of his treatment of them in such form as the Minister may from time to

[1] 9 & 10 Geo. 6, c. 62 & 67.

time determine after consultation with an organisation which is in his opinion representative of the general body of medical practitioners.

(*b*) to forward such records to the Council when called for, with reasonable promptness ; and

(*c*) upon knowledge of the death of a person on his list, to forward such record to the Council within seven days.

Consultation &c. with Medical Officer

(13) A practitioner is required :—

(*a*) to furnish in writing to the medical officer within such reasonable period as the latter may specify any clinical information which he may require with regard to the case of any patient to whom the practitioner has issued or declined to issue a medical certificate ;

(*b*) to meet the medical officer, at his request, for the purpose of examining in consultation any patient in respect of whom the practitioner has sought the advice of the medical officer ;

(*c*) upon notice being given, to afford to the medical officer access at all reasonable times to the practitioner's surgery or other place where the records required by these terms of service are kept for the purpose of the inspection of such records, and to furnish to the medical officer such records or necessary information with regard to any entry therein, as he may request ; and

(*d*) to answer any inquiries of the medical officer with regard to any prescription or certificate issued by the practitioner or to any statement made in any report furnished by him under these terms of service.

Deputies, Assistants and Partners

8.—(1) Save as provided in this paragraph in the case of partners and assistants, all treatment shall be given by a practitioner personally, except where he is prevented by reason of other professional duties, temporary absence from home or other reasonable cause.

(2) A practitioner shall make all necessary arrangements for securing the treatment of his patients where he is unable for any of the causes mentioned above to give treatment personally and shall inform the Council of any standing arrangements for that purpose. He shall not absent himself from his practice for more than one week without first informing the Council of his proposed absence and of the person or persons responsible for conducting his practice during such absence.

(3) (*a*) A practitioner shall not, except for a period of less than three months, employ an assistant to attend his patients without the consent of the Council.

(*b*) The name of any assistant shall be notified by the practitioner to the Council.

(4) A practitioner shall not, without the consent of the Minister, employ as a deputy or assistant any practitioner who is disqualified for inclusion in the medical list of the Council concerned under section 42 of the Act.

(5) A practitioner shall not employ for the purposes of providing

maternity medical services a deputy or assistant who is not a medical practitioner having obstetric experience.

(6) A practitioner acting as deputy shall be entitled to treat patients at places and at times other than those arranged by the practitioner for whom he is acting, due regard being had to the convenience of the patients.

(7) A deputy or assistant (other than a partner or assistant whose name is included in the medical list) shall, in addition to signing with his own name, any certificate, prescription form or other document issued by him under these terms of service, insert therein if it does not already appear the name of the practitioner for whom he is acting as deputy or assistant.

(8) A practitioner is responsible for all acts and omissions of any practitioner acting as his deputy or assistant in relation to his obligations under these terms of service.

(9) In the case of two or more practitioners practising in partnership or as a principal and assistant, treatment may at any time be given by a partner or assistant of the practitioner in whose list the patient is included, instead of by the practitioner in person, if reasonable steps are taken to secure continuity of treatment: Provided that the patient will be entitled to require the personal services of the principal, instead of the assistant except when the principal is prevented from attending for any of the reasons referred to in sub-paragraph (1) of this paragraph.

Arrangements for Practice

9. A practitioner shall not carry on practice elsewhere than at his place of residence, or at a health centre, except upon conditions which appear to the Council, or on appeal, to the Minister, to be such as to enable his obligations under these terms of service, and in particular his obligation to visit his patients, to be adequately carried out. Any conditions so imposed may include a requirement that the patients of the practitioner are to be notified at the practitioner's expense of any special arrangements under which his practice is carried on.

Acceptance of Fees

10.—(1) A practitioner shall not demand or accept any fee or other remuneration in respect of any medical treatment, whether under these terms of service or not, rendered to his patients or the patients of his partner or assistant: Provided that nothing in this paragraph shall debar a practitioner from demanding and accepting a fee or other remuneration :—

(*a*) under paragraph 5 of these terms of service,

(*b*) from any statutory body in respect of services rendered for the purpose of that body's statutory functions,

(*c*) from any school, employer or body for the medical examination of persons for whose welfare that school, employer or body is responsible, such examination being either a routine medical examination or for the purpose of advising the school, employer or body as to any administrative action they might take.

(*d*) for treatment not included within the range of service defined in paragraph 6 given—

(i) in special accommodation in a hospital set aside for

private patients in accordance with section 5 of the Act, or

(ii) in a registered nursing home, not being a hospital providing hospital and specialist services under the Act,

if in either case the practitioner is serving on the staff of a hospital providing hospital and specialist services as a specialist providing treatment of the kind required by the patient: Provided that within seven days after the date on which treatment is given the practitioner furnishes the Council, on a form to be supplied by them for the purpose, with such particulars relating to the service rendered as they may require,

(*e*) under Section 16 of the Road Traffic Act, 1934.[1]

(2) A practitioner shall take all practicable steps to ensure that any partner of his, whether or not such partner is providing general medical services, shall not demand or accept any fee or other remuneration in respect of medical treatment rendered to the practitioner's patients unless the partner would have been entitled to charge if the patient had been on his own list.

Method of Altering Terms of Service: Withdrawals from the Medical List

Revision of Terms of Service

11.—(1) The Council may, with the approval of the Minister, alter the terms of service as from such date as he may approve by giving notice of the proposed alteration. Such notice shall be given to each practitioner, save as is provided in sub-paragraph (3) of this paragraph.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or which has been approved by the Minister after consultation with an organisation which is in his opinion representative of the general body of medical practitioners, the Council shall, before making an alteration, consult with the Local Medical Committee and the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

(3) If in any case of alteration the Minister after consultation with such an organisation as aforesaid directs that notice of the proposed alteration shall be given to the Local Medical Committee only, the Council shall give notice to the Local Medical Committee, and the notice shall in that case be deemed to have been given to each practitioner.

Withdrawal from Medical List

12. A practitioner is entitled at any time to give notice to the Council that he desires to withdraw his name from the medical list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree:

Provided that if representations are made to the Tribunal under the provisions of section 42 of the Act that the continued inclusion of a practitioner in the medical list would be prejudicial to the efficiency of the general medical services, he shall not, except with the consent of the Minister and subject to such conditions as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

[1] 24 & 25 Geo. 5, c. 50.

Continued Absence or Disability of Practitioner

13. Where the Council after consultation with the Local Medical Committee, are satisfied that owing to the continued absence or bodily or mental disability of a practitioner his obligations under the terms of service are not being adequately carried out, they may with the consent of the Minister give notice to the persons on his list that the practitioner is for the time being in their opinion not in a position to carry out his obligations under the terms of service.

Disputes, Appeals, &c.

14. The terms of service relating to the following matters are contained in Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948 :

(*a*) the investigation of questions arising between practitioners and their patients and other investigations to be made by the medical service committee and the joint services committee and the action which may be taken by the Council as a result of such investigations, including the withholding of remuneration from the practitioner where there has been a breach of the terms of service.
(*b*) appeals to the Minister from decisions of the Council.
(*c*) the investigation of cases of alleged excessive prescribing.
(*d*) the investigation of certification.
(*e*) the investigation of record keeping.
(*f*) decisions as to treatment for which fees may be charged.
(*g*) the determination of the question whether a substance is a drug.

Issue of Notices to Practitioners

15. Any notice which a Council is required or authorised by these terms of service to give a practitioner shall be sufficiently given if it has been delivered to him or sent by post to him at the address which he has last notified the Council as being his place of residence.

Part II

Remuneration of Practitioners

1. *Payments by way of remuneration and allowances to be distributed in accordance with the distribution scheme :—*

(i) a fixed annual payment of £300 as part of the remuneration : Provided that after such period as the scheme specifies a practitioner shall be entitled to the fixed annual payment only if he has the minimum number of patients on his list specified by the scheme, unless the approval of the Minister has been obtained to its continuance in view of special circumstances ;
(ii) a capitation payment, that is to say, a payment by reference to the number of persons included in the practitioner's list ;
(iii) payment in respect of temporary residents ;
(iv) payment for treatment given by practitioner in an emergency to a person not included in his list ;
(v) payment in respect of mileage ;
(vi) payment in cases in which the practitioner is required to

provide the services of a second practitioner for the purpose of administering an anæsthetic.

2. *Other matters to be dealt with in the distribution scheme :—*

(i) the calculation of practitioner's lists ;

(ii) adjustment of payment in the case of a practitioner who is exempted from the liability of having persons assigned to him or is relieved of obligations for emergency night calls in respect of persons not on his list ;

(iii) the method of payment to practitioners practising in partnership ;

(iv) the method by which, and the time within which, the moneys are to be paid by the Council ;

(v) any deductions from remuneration in respect of superannuation ;

(vi) the issue at the end of each year by the Council to each practitioner of a statement, in a form approved by the Minister, showing the total amount payable to the practitioners in the Council's area for the year, and the method by which the money payable to the practitioner has been calculated ;

(vii) such other matters, if any, as may be required ;

3. *Other payments :—*

(i) an inducement payment, that is to say, an addition to the fixed annual payment or capitation payment, in areas which are in the opinion of the Minister, after consultation with the Medical Practices Committee, sparsely populated or for any other reason unattractive to medical practitioners ;

(ii) a supervision fee for the training of an assistant under and arrangement approved by the Minister ;

(iii) payment in respect of the provision of maternity medical services by practitioners having obstetric experience ;

(iv) payment to practitioners in respect of the supply of drugs and appliances.

Part III

Form of Application for inclusion in Medical List

To the Executive Council for.....

I.....

residing at .....

(*private address*)

a registered medical practitioner included in the medical register in that name and having the following medical qualifications, namely,.....

.....

apply to be included in the list of medical practitioners undertaking to provide

[1] general medical services $\frac{\text{[1] including}}{\text{[1] excluding}}$ maternity medical services

[1] general medical services, such services being limited to maternity medical services.

for persons in the Council's area, and [2] [if my application is granted] I accept service under, and agree to be bound by, the terms of service for the time being in operation in that area.

[1] I intend to practise in partnership with.....

[1] I intend to act as an assistant to.....

$\frac{\text{[1] I have applied}}{\text{[1] I intend to apply}}$ to the Local Obstetric Committee for approval of my obstetric experience.

The district or districts within which [2] [if my application is granted] I undertake to visit patients and particulars of my surgery hours are given below :

I also undertake to visit any patients who at the date on which they are placed on my list reside outside the said district or districts at the place at which they are residing at that date.

District	*Surgery*	*Days and hours of attendance*

Signed .....

Date .....

SECOND SCHEDULE

Form of Certificate to be issued by Medical Practices Committee under Section 35 (9) *of the National Health Service Act,* 1946

WHEREAS has applied to the Medical Practices Committee under section 35 (9) of the National Health Service Act, 1946, for their opinion as to whether the proposed transaction or series of transactions described in the schedule hereto, which sets out all material circumstances disclosed to the Committee, involves the sale of the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of that section :

AND WHEREAS the Committee have considered the application :

NOW THEREFORE the Medical Practice Committee hereby certify that they are satisfied that the said transaction or series of transactions does not involve such a sale as aforesaid.

SCHEDULE

Dated this day of 19 .

Signature of the chairman or other member authorised by the Committee for the purpose.

[1] Delete if inappropriate.

[2] Practitioners (other than paid assistants) already practising in an area who apply before 5th July, 1948, are entitled to be included in the list of the area and these words should be deleted when application is made by such a practitioner.

THIRD SCHEDULE

PART I

List of Appliances

Animal wool
Atomisers, hand operated
Bandages :
- calico
- crepe
- domette
- elastic adhesive
- elastic web
- flannel
- indiarubber
- many-tailed
- muslin
- open wove
- plaster of Paris
- suspensory, cotton
- triangular
- zinc paste

Breast relievers
Brushes, when required for the proper administration of any drug forming part of general medical services.
Catheters :
- Urethal : gum-elastic, soft rubber } and lubricant for use therewith
- Suprapubic : rubber, and shields for use therewith

Cellulse tissue
Cellulose wadding
Chiropody felt
Corn and bunion plasters and rings
Cotton wool :
- absorbent
- grey
- medicated

Douches, with rectal and vaginal fittings
Dressings :
- standard dressing B.P.C.
- wound dressing, boil dressing } as described in the Drug Tariff.

Droppers, when required for the proper administration of any drug forming part of general medical services.
Elastic stockings
Elastic kneecaps
Elastic anklets
Elastic thigh pieces
Eye baths
Eye ointment rods
Eye shades
Finger stalls
Gauzes :
- surgical
- medicated
- unmedicated

Gauze and cotton wool tissue :
- medicated
- unmedicated

Hypodermic needles : when required for self-administration of Insulin or Adrenaline.
Hypodermic syringes : when required for self-administration of Insulin or Adrenaline.
Ice bags :
- check sheeting
- indiarubber

Inhalers
Irrigators :
- eye (undine)
- nasal

Lints :
- surgical
- medicated
- unmedicated

Pessaries :
- ring
- Hodge's

Plaster :
- adhesive, spread or on spool
- elastic adhesive

Protectives :
- battiste
- gutta percha tissue
- jaconet
- oiled cambric
- oiled silk, including oiled artificial silk
- Rubber tubing

List of Appliances—contd.

Splints: including Gooch and Kramer splinting and poroplastic but excluding walking caliper splints, surgical boots and foot supports worn with boots and shoes.
Sputum flasks
Syringes:
  glass
  rubber
Tampons
Test Tubes
Tows:
  carbolised
  unmedicated
Trusses
Vaccination shields and pads
Vaporisers

PART II

Chemical Reagents

Fehling's Solution and Benedict's Solution (Qualitative) when required for the proper regulation of the treatment of diabetes.

FOURTH SCHEDULE

PART I

Terms of Service for Chemists

Interpretation

1. In these terms of service, unless as the context otherwise requires,

"the regulations" means the National Health Service (General Medical and Pharmaceutical Services) Regulations, 1948;

"chemist" means a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933, who provides pharmaceutical services. The terms of service shall also apply to any other person, firm or body corporate (other than a medical practitioner) providing pharmaceutical services as if that person, firm or body were a chemist as so defined;

"appliances" in relation to appliances ordered by a medical practitioner means appliances specified in Part I of the third Schedule to the regulations; and

"drugs" in relation to drugs ordered by a dental practitioner means the drugs specified in the third schedule to the National Health Service (General Dental Services) Regulations, 1948.

Incorporation of Provisions of Regulations, etc.

2. Any provisions of the regulations and Part II of the National Health Service (Service Committees and Tribunal) Regulation, 1948, or any scheme made thereunder affecting the rights and obligations of chemists shall be deemed to form part of these terms of service.

Provision of Pharmaceutical Services

3.—(1) (*a*) A chemist shall supply with reasonable promptness to any person who presents an order for drugs or appliances on a prescription form provided for the purpose by a Council and signed by a

practitioner on the medical list of a Council or by his deputy or assistant such drugs or appliances as may be so ordered and shall, so far as practicable, keep in stock for that purpose all those drugs and appliances mentioned in the Drug Tariff for the time being in force as drugs or appliances which a chemist is required to keep.

(*b*) A chemist shall supply with reasonable promptness to any person who presents an order for a drug on a prescription form provided for the purpose by a Council and signed by a dental practitioner on the dental list of a Council or by his deputy or assistant such drug as may be so ordered.

(*c*) A chemist shall supply in a suitable container any drug which he is required to supply under this paragraph.

(2) All drugs and appliances so supplied which are included in the Drug Tariff shall be of a grade or quality not lower than the grade or quality specified therein. Drugs and appliances so supplied which are not included in the Drug Tariff shall be of a grade or quality not lower than the grade or quality ordinarily used for medical purposes.

(3) A chemist shall not give, promise or offer to any person any gift or reward (whether by way of a share of or dividend on the profits of the business or by way of discount or rebate or otherwise) as an inducement to or in consideration of his presenting an order for drugs or appliances on a prescription form provided by the Council.

Place and Hours of Business

4.—(1) Pharmaceutical services shall be provided at the place or places of business specified in the application made by the chemist for inclusion in the Council's list and the place or places shall be open for the supply of pharmaceutical services during the hours specified in the scheme to be made by the Council for that purpose under the regulations.

(2) At each place of business at which a chemist provides pharmaceutical services he is required (i) to exhibit a notice to be provided by the Council in the form prescribed in Part IV or Part V of this schedule and (ii) in the case of a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933, to exhibit, at times when his place of business is not open and in such a manner as to be visible at such times, a notice to be provided by the Council in the form prescribed in Part VI of this schedule indicating the addresses of other registered pharmacists and authorised sellers of poisons, where, and the times at which medicines and appliances may be obtained in the neighbourhood.

Dispensing of Medicines

5.—(1) The dispensing of medicines shall be performed either by or under the direct supervision of a registered pharmacist or by a person who for three years immediately prior to the sixteenth day of December, 1911 acted as a dispenser to a medical practitioner or a public institution.

(2) A chemist shall not dispense a prescription requiring the manufacture by him of a substance scheduled under the Therapeutic Substances Act, 1925, unless he holds a licence for the purpose.

Names of Registered Pharmacists

6. A chemist shall, if so required by the Council, furnish to the Council the name or names of registered pharmacists employed by him

in dispensing medicines for persons receiving general medical or general dental services.

Drugs, &c., to be Supplied without Charge

7. All drugs, containers and appliances supplied under these terms of service shall be supplied free of change.

Method of Payment

8.—(1) A chemist is required to furnish to the Council or to such other person or body as they may direct, on dates to be appointed by the Minister, the forms upon which the orders for drugs and appliances supplied by him were given, arranged in such manner as the Council may direct, together with a statement of accounts containing such particulars relating to the provision by him of pharmaceutical services as the Council, with the approval of the Minister, may from time to time require.

(2) The Council shall, if any chemist so requires, afford him reasonable facilities for examining all or any of the forms on which the drugs or appliances supplied by him were ordered together with particulars of the amounts calculated to be payable in respect of such drugs and appliances and if he takes objection thereto, the Council shall take such objection into consideration.

(3) The Council shall, if so required by the Local Pharmaceutical Committee or any organisation which is, in the Minister's opinion, representative of the general body of chemists, afford the Local Pharmaceutical Committee or the said organisation similar facilities for examining such forms and particulars relating to all or any of the chemists and shall take into consideration any objection made thereto by the Local Pharmaceutical Committee or the said organisation.

(4) Payment will be made for drugs and appliances mentioned in the Drug Tariff at the prices specified therein and for drugs or appliances not mentioned in the Tariff in the manner set forth therein. The payment to be made for containers and in respect of dispensing fees shall be calculated in the manner set forth in the Tariff.

Revision of Terms of Service

9.—(1) The Council may, subject to the approval of the Minister, alter the terms of service as from such date as he may approve by giving notice of the proposed alteration. Such notice shall be given to each chemist, save as is provided in sub-paragraph (3) of this paragraph.

(2) Except in the case of an alteration which results from the coming into operation of any Act of Parliament or which has been approved by the Minister after consultation with an organisation which is in his opinion representative of the general body of chemists, the Council shall, before making an alteration consult with the Local Pharmaceutical Committee, and the alteration shall not come into operation within a period of three months from the date of the issue of the notice.

(3) If in any case of alteration the Minister after consultation with such an organisation as aforesaid directs that notice shall be given to the Local Pharmaceutical Committee only, the Council shall give notice to the Local Pharmaceutical Committee, and notice shall thereby be deemed to have been given to each chemist.

Withdrawal from Pharmaceutical List

10.—(1) A chemist is entitled at any time to give notice to the Council that he desires to withdraw his name from the list and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Council may agree : Provided that if representations are made to the Tribunal under the Provisions of Section 42 of the Act that the continued inclusion of a chemist in the list would be prejudical to the efficiency of the service, he shall not, except with the consent of the Minister and subject to such conditions as the Minister may impose, be entitled to have his name removed from the list pending the termination of the proceedings on such representations.

(2) The name of any chemist whose business is carried on by representatives in accordance with the provisions of the Pharmacy and Poisons Acts, 1852 to 1933, shall not be removed from the list so long as the business is carried on by them in accordance with the provisions of those Acts, and the representatives agree to be bound by the terms of service of the chemist.

Disputes, Appeals, &c.

11. The terms of service relating to the following matters are contained in Part II of the National Health Service (Service Committees and Tribunal) Regulations, 1948.

(*a*) the investigation of complaints made by or on behalf of persons receiving general medical and general dental services against chemists and other investigations to be made by the pharmaceutical service committee and the joint services committee and the action which may be taken by the Council as a result of such investigations, including the withholding of remuneration from chemists where there has been a breach of the terms of service ;

(*b*) appeals to the Minister from decisions of the Council.

Part II

Form of Application for Inclusion in Pharmaceutical List for Use by Registered Pharmacists and Authorised Sellers of Poisons

National Health Service

To the Executive Council for.....

I (We).....of.....

.....hereby undertake to dispense medicines and supply drugs and appliances under the terms for the time being in operation in the area of the Council, and apply to have my (our) name(s) included in the Council's pharmaceutical list. My (our) place(s) of business for the purpose will be.....

The registered pharmacist(s) in charge at this (these) place(s) of business is (are).....

Registration Number(s).....

Signed .....

Date.....

Part III

Form of Application for inclusion in Pharmaceutical List for use by persons other than Registered Pharmacists and Authorised Sellers of Poisons

National Health Service

To the Executive Council for.....

I (We) ..... of.....

.....hereby undertake

[1] (*a*) to supply drugs (except poisons in Part I of the Poisons List) ;
[1] (*b*) to supply appliances ;
under the terms for the time being in operation in the area of the Council, and apply to have my (our) name(s) included in the Council's pharmaceutical list. My (our) place(s) of business for this purpose will be .....

Signed.....

Date .....

Part IV

Form of Notice to be exhibited by Registered Pharmacists and Authorised Sellers of Poisons

National Health Service

(Name of person, firm or company contracting)

Under contract with the Executive Council for.....
..... to dispense medicines and supply drugs and appliances.

These premises are open at the following times :—

Part V

Form of Notice to be exhibited by persons other than Registered Pharmacists and Authorised Sellers of Poisons

National Health Service

(Name of person, firm or company contracting)

Under contract with the Executive Council for.....
[1] (*a*) to supply drugs (except poisons in Part I of the Poisons List) ;
[1] (*b*) to supply appliances.

These premises are open at the following times :—

[1] Delete (*a*) or (*b*) as necessary.

PART VI

FORM OF NOTICE TO BE EXHIBITED BY REGISTERED PHARMACISTS AND AUTHORISED SELLERS OF POISONS AT TIMES WHEN THE PREMISES ARE CLOSED

National Health Service

When these premises are closed, medicines and appliances may be obtained at the addresses and times shown below :—

EXPLANATORY NOTE

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

The Regulations provide for the arrangements to be made by Executive Councils under Part IV of the National Health Service Act, 1946, with medical practitioners and chemists for the provision of a general medical practitioner service (including a maternity medical service) and the supply of drugs, medicines and appliances. The terms of service for general medical practitioners and chemists are included as schedules to the Regulations.

The Regulations further provide for the setting up of the Medical Practices Committee, its constitution and its procedure for determining applications from medical practitioners for inclusion in a medical list and prescribe the form of certificate to be issued to medical practitioners under section 35 (9) of the Act that a transaction does not involve the sale of goodwill.

(S. I. 1948, No. 507)

The National Health Service (Service Committees and Tribunal) Regulations 1948

Made	12*th March*, 1948
Laid before Parliament . .	15*th March*, 1948
Coming into Operation . .	24*th March*, 1948

ARRANGEMENT OF REGULATIONS

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Regulation

1. Short title and commencement.
2. Interpretation.

PART II—*Provisions relating to investigations, disputes, appeals, etc.*

3. Constitution of service committee.
4. Investigations by committee.

Regulation

5. Procedure of committees.
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12. Investigation of excessive prescribing.
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15. Decision as to treatment for which fees may be charged.
16. Determination of question whether a substance was a drug.
17. Recovery of cost of substance held not to be a drug.
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19. Power of Local Medical Committee to consider complaints.
20. Power of Local Pharmaceutical Committee to consider complaints.
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PART III—*Inquiries relating to medical and dental practitioners and chemists*

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23. Chairman of Tribunal.
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26. Power to refuse inquiry.
27. Notices to be sent in case of inquiry.
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PART IV—*Notices*

44. Service of notices, etc.
45. Power to dispense with requirements as to notices.

PART V—*The Isles of Scilly*

46. Application of regulations.

SCHEDULES

FIRST SCHEDULE—Rules of procedure under regulation 5.
SECOND SCHEDULE—Rules of procedure under regulation 15.
THIRD SCHEDULE—Forms for use in proceedings before Tribunal.

The Minister of Health, in exercise of his powers under sections 32, 33, 38, 40, 42 and 74 of, and the Fifth and Seventh Schedules to, the National Health Service Act, 1946,[1] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

PART I

General

Short Title and Commencement

1. These regulations may be cited as the National Health Service (Service Committees and Tribunal) Regulations, 1948, and shall come into operation on the twenty-fourth day of March, 1948.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" Council " means the Executive Council constituted for any area ;

" dental officer " means any dental officer appointed by the Minister for a district in which general dental services are provided ;

" drugs " includes in the case of persons receiving general medical services medicines and any prescribed chemical reagents and in the case of persons receiving general dental services means any prescribed drug ;

" Drug Tariff " means the statement prepared by the Minister under regulation 28 of the General Service Regulations hereinafter defined specifying the prices and standards of drugs and appliances to be provided under those regulations ;

" General Dental Regulations " means the National Health Service (General Dental Services) Regulations, 1948 [2] ;

" General Service Regulations " means the National Health

[1] 9 & 10 Geo. 6, c. 81.

[2] S. I. 1948, No. 505.

Service (General Medical and Pharmaceutical Services) Regulations, 1948 [1];

" health centre " means premises provided by a local health authority in accordance with the provisions of section 21 of the Act;

" medical officer " means any medical officer appointed by the Minister for a district in which general medical services are provided;

" practitioner " means either a registered medical or registered dental practitioner as the context may require;

" treatment " in relation to general medical services has the same meaning as in the General Service Regulations and in relation to general dental services has the same meaning as in the General Dental Regulations;

" the terms of service " means the terms of service for medical practitioners contained in Part I of the first schedule to the General Service Regulations, the terms of service for chemists contained in Part I of the fourth schedule to the General Service Regulations and the terms of service for dental practitioners contained in Parts I and II of the first schedule to the General Dental Regulations, as the case may be;

" the Tribunal " means the Tribunal constituted under section 42 of the Act.

(2) In these regulations the expression " chemist " means a registered pharmacist or authorised seller of poisons within the meaning of the Pharmacy and Poisons Act, 1933,[2] who provides pharmaceutical services. The regulations shall also apply (except so far as the context may otherwise require) to any other person, firm or body corporate (other than a practitioner) providing pharmaceutical services, as if that person, firm or body were a chemist as so defined.

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

Part II

Provisions Relating to Investigations, Disputes, Appeals, etc.

Constitution of Service Committee

3.—(1) Every Council shall establish a medical service committee, a pharmaceutical service committee, a dental service committee, and a joint services committee.

[1] S. I. 1948, No. 506.
[2] 23 & 24 Geo. 5, c. 25.
[3] 52 & 53 Vict., c. 63.

(2)—(*a*) The medical service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Council, and three shall be appointed by the Local Medical Committee.

(*b*) The pharmaceutical service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Council and three shall be appointed by the Local Pharmaceutical Committee.

(*c*) The dental service committee shall consist of a chairman and six other persons of whom three shall be appointed by and from the lay members of the Council and three shall be appointed by the Local Dental Committee.

(*d*) The joint services committee shall consist of a chairman and eight other persons of whom two shall be appointed by and from the lay members of the Council, two shall be appointed by the medical service committee from their members or deputies who are medical practitioners, two shall be appointed by the dental service committee from their members or deputies who are dental practitioners, and two shall be appointed by the pharmaceutical service committee from their members or deputies who are registered pharmacists.

(*e*) A corresponding number of persons shall be appointed in the same manner to act as deputies for the members (other than the chairman) of the medical, pharmaceutical and dental services committees and joint services committee and in the absence of a member a deputy having the same qualifications shall be entitled to act in his place.

(*f*) When any matter stands referred under paragraph (7) of regulation 4 of these regulations to the joint services committee, the members of that committee appointed by the medical service committee shall not take part in the hearing unless the matter involves a question relating to a medical practitioner, the members appointed by the dental service committee shall not take part in the hearing unless the matter involves a question relating to a dental practitioner, and the members appointed by the pharmaceutical service committee shall not take part unless the matter involves a question relating to a chemist.

(3) The following provisions shall have effect with regard to the appointment of the chairman of each of the said committees :—

(*a*) The chairman shall be appointed at a meeting of the members of the committee to be specially summoned for the purpose. The chairman of the Council or, if he is a member of the committee or is unable to attend, the vice-

chairman or some other member of the Council (not being a member of the committee) to be nominated by the chairman shall preside at the meeting but shall not be entitled to vote. The appointment shall be made by a majority of the votes cast at the meeting.

(*b*) The persons eligible for appointment shall be the lay members of the Council or a person appointed as chairman by the Council or the Minister under the following provisions of this regulation whose term of office has expired.

(*c*) If no appointment is made at the said meeting, or if within seven days after the meeting a statement signed by the lay members of the committee, or by the members appointed by the Local Medical, Pharmaceutical or Dental Committees, or in the case of the joint services committee by the members appointed by the medical, pharmaceutical or dental service committees, is sent to the Council asserting that the chairman appointed at the meeting is not acceptable, the Council shall appoint a person to be chairman and the chairman, if any, appointed by the committee shall thereupon cease to hold office as chairman and member of the committee.

(*d*) If a chairman has been appointed by the Council and within seven days after the meeting at which the appointment is made a statement signed by the lay members of the committee or by those members appointed by the Local Medical, Pharmaceutical or Dental Committees, or in the case of the joint services committee by the lay members of the committee or by the members appointed by either the medical, pharmaceutical or dental services committee is sent to the Council, asserting that the chairman appointed by the Council is not acceptable, the Council shall within two months refer the appointment to the Minister, and the Minister may after consultation with the Council and the Local Medical, Pharmaceutical or Dental Committees, as the case may be, appoint a chairman in place of the existing chairman who shall thereupon cease to hold office as chairman and member of the committee.

(*e*) Where an appointment of the chairman of the committee falls to be made by the Council or by the Minister, a person who is not a member of the Council shall be eligible for appointment provided that he is not a practitioner or registered pharmacist, and any person not being a member of the Council who is appointed chairman shall be entitled

to attend and take part in the proceedings of the meetings of the Council but not to vote.

(*f*) The foregoing provisions with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman.

(*g*) If the person appointed as chairman or deputy chairman of a committee is already a member of the committee, he shall thereupon cease to be a member other than as chairman or deputy chairman, and a new member shall be appointed to take his place.

In this regulation the expression " lay members " in relation to the Council means members appointed by the local health authority or the Minister, and in relation to a committee means members of the committee appointed by the lay members of the Council.

(4) If in the opinion of the chairman any member of a committee is interested, or is partner, principal, assistant or manager to a practitioner or chemist, who is interested in a question referred to them, that member shall take no part in the hearing thereof but a deputy having the same qualifications shall act in his place.

(5) The deputy chairman if the chairman is absent shall exercise and perform the powers and duties of the chairman, and shall otherwise be entitled to be present at, and take part in, the proceedings of the committee, but not to vote.

(6) The Council may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the committee: Provided that the term of office of the chairman shall not exceed one year unless he is re-appointed.

Investigation by Service Committee

4.—(1) Subject as hereinafter provided any complaint made by a person against a medical practitioner in respect of an alleged failure to comply with the terms of service shall be investigated by the medical service committee.

(2) Subject as hereinafter provided any complaint made by a person against a chemist in respect of an alleged failure to comply with the terms of service shall be investigated by the pharmaceutical service committee.

(3) Subject as hereinafter provided any complaint made by a person against a dental practitioner in respect of an alleged failure to comply with the terms of service shall be investigated by the dental service committee.

(4)—(*a*) The person desiring to make a complaint under this regulation against a medical practitioner or a chemist shall within six weeks after the event which gave rise to the complaint give written notice to the clerk of the Council stating the substance of the matter which it is desired to have investigated.

(*b*) The person desiring to make a complaint under this regulation against a dental practitioner shall within six months after completion of the treatment or within six weeks after the matter which gave rise to the complaint came to the complainant's notice, whichever is the sooner, give written notice to the clerk of the Council stating the substance of the matter which it is desired to have investigated.

(*c*) Notwithstanding failure to give notice within the periods specified in the two preceding sub-paragraphs, the committee may investigate the matter if they are satisfied that such failure was occasioned by illness or other reasonable cause and—

(i) in the case of a complaint against a medical practitioner or chemist the complaint is made within two months after the said event, or

(ii) in the case of a complaint against a dental practitioner the complaint is made within six months after the completion of the treatment or within two months after the matter came to the complainant's notice, whichever is the sooner, or

(iii) the practitioner or chemist, as the case may be, consents to the investigation taking place notwithstanding the failure to give notice in time, or

(iv) the Minister's consent to the investigation has been obtained. In applying for such consent the committee shall furnish the Minister and the practitioner or chemist, with a copy of the said notice, a statement of the reasons for the failure to give notice in time and with any further information which the Minister may require, and the practitioner or chemist shall be entitled within seven days after the receipt by him of such statement or further information to forward to the Minister a statement of the grounds on which he contends that the investigation should not take place.

(5) Subject as hereinafter provided the medical service committee shall in relation to medical practitioners, the pharmaceutical service committee shall in relation to chemists, and the dental service committee shall in relation to dental practitioners, investigate any matters referred to them by the Council, or any committee of the Council duly authorised in that behalf by the Council, or the Dental

Estimates Board relating to the administration of general medical services, pharmaceutical services or general dental services, whether or not any such matter has been raised on complaint under the foregoing provisions of this regulation :

Provided that no question which involves an allegation against a practitioner of a breach of the terms of service shall, without the consent of the Minister, or of the practitioner concerned, be referred for investigation under this paragraph, except within the period specified in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph, and the provisions of sub-paragraph (*c*) of that paragraph with reference to the procedure to be adopted on application for the Minister's consent shall *mutatis mutandis* apply to any application for his consent under this paragraph.

(6) The pharmaceutical service committee shall perform such duties in connection with the testing of drugs and appliances as may be imposed on them by the scheme made for that purpose under regulation 26 of the General Service Regulations.

(7) If in the opinion of the medical service committee any matter referred to that committee involves a question relating to a dental practitioner or a chemist, or if in the opinion of the dental service committee any matter referred to that committee involves a question relating to a medical practitioner or a chemist, or if in the opinion of the pharmaceutical service committee any matter referred to that committee involves a question relating to a practitioner, the committee shall, in lieu of dealing with the matter themselves, refer it to the joint services committee.

(8) Any matter which would otherwise be referred by the Council or any committee duly authorised in that behalf by the Council to the medical service committee or pharmaceutical service committee or the dental service committee for investigation may, if the Council or committee are satisfied that it is appropriate to the joint services committee, be referred by them to that committee.

Procedure of Service Committees

5.—(1) A service committee shall permit a party to an investigation to be assisted in the presentation of his case by some other person : Provided that no person shall be entitled in the capacity of counsel, solicitor or other paid advocate to conduct the case for any party by addressing the committee or examining or cross-examining witnesses.

(2) The proceedings at the hearing before the committee shall be private and no person shall be admitted to those proceedings except—

(*a*) the parties to the investigation and the persons, if any, permitted to appear for the purpose of assisting them ;

(*b*) the secretary or other officer of the Local Medical, Pharmaceutical or Dental Committee whichever is concerned ;

(*c*) persons whose attendance is required for the purpose of giving evidence and who shall, unless the committee otherwise direct, be excluded from the hearing except when they are actually giving evidence ; and

(*d*) such officers of the Council as they may appoint for the purpose.

(3) The first schedule to these regulations shall apply with respect to the investigation of complaints, and the procedure of the committee.

(4) The committee shall draw up a report stating such relevant facts as appear to them to be established by the evidence placed before them and the inferences which in their opinion may properly be drawn from the facts, together with a recommendation as to the action, if any, which should be taken and shall present the report to the Council, and the Council shall accept as conclusive any finding of fact contained in the report. In presenting such report to the Council the committee may, if they think fit, draw the attention of the Council to any previous reports made by that committee in connection with the practitioner or chemist and to any action taken by the Minister on such reports and may recommend that account should be taken thereof by the Council in reaching their decision.

Action by Council

6. The Council shall furnish the Minister with a copy of the report of the service committee and a statement of the Council's decision thereon, which may include action in any one or more of the following ways :—

(*a*) If the investigation relates to the conduct of a medical practitioner and the Council are satisfied, after consultation with the Local Medical Committee, that owing to the number of persons included in his list the practitioner is unable to give adequate treatment to all those persons they may impose a special limit on the number of persons for whom the practitioner may undertake to provide treatment and in that event any number in excess of that limit shall be dealt with as though the list of the practitioner was by that number in excess of the general limit fixed for the list of practitioners in the area.

(*b*) The Council may recover from the practitioner or chemist

as the case may be, by a deduction from his remuneration or otherwise, any expenses (other than expenses incurred in connection with an investigation by the appropriate committee) which have been reasonably and necessarily incurred by any person owing to the failure of the practitioner or chemist to comply with the terms of service, and any sum so recovered shall be paid to that person : Provided that in the case of a dental practitioner, the maximum amount which may be deducted shall not exceed the cost of the treatment provided by another dental practitioner to the person concerned calculated in accordance with regulations made under the Act.

(*c*) The Council may make representations to the Minister that, owing to the failure of the practitioner or chemist to comply with the terms of service, an amount should be withheld from his remuneration.

(*d*) If the Council are of the opinion that the continued inclusion of the medical practitioner on the medical list or of the chemist on the pharmaceutical list or of the dental practitioner on the dental list, would be prejudicial to the efficiency of the services in question, they may make representations to that effect to the Tribunal.

(*e*) In the case of a dental practitioner the Council may until further notice require the practitioner, in respect of any treatment other than an examination or emergency treatment, to submit for prior approval to the Dental Estimates Board estimates in respect thereof.

Appeal to Minister from Decision of Council

7.—(1) The Council shall furnish the parties to an investigation with a copy of the service committee's report and of their decision and shall inform them of their right of appeal to the Minister against any decision other than a decision to take action under paragraph (*d*) of the last preceding regulation and of the Minister's power on such an appeal to award costs.

(2) Subject to the next following regulation any party aggrieved by such decision shall be entitled to appeal to the Minister by sending to the Minister notice of appeal within one month from the date on which notification of the decision was received.

(3) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(4) The Minister may, on the application of any person desiring to appeal, extend the time for giving notice of appeal and may do so

although the application is not made until after the expiration of one month from the date on which notice of the Council's decision was received.

(5) An application for the extension of the time for giving notice of appeal must be made in writing to the Minister, stating the grounds for the application.

Representation by Council to Tribunal

8.—No appeal shall lie against a decision of a Council to make representations with regard to the continued inclusion in any list of the name of any practitioner or chemist and if a Council decides to make such representations and an appeal to the Minister is made against their decision on other matters, the Minister may treat as conclusive for the purpose of the appeal any relevant findings of the Tribunal.

Procedure on Appeal

9.—(1) If the Minister, after considering the notice of appeal and any further particulars furnished by the appellant, is of opinion that the said notice and particulars disclose no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, he may dismiss the appeal forthwith : Provided that an appeal against a decision of the Council to take action under paragraphs (*a*), (*b*), (*c*) or (*e*) of regulation 6 of these regulations shall not be dismissed without an oral hearing unless the appellant does not desire such a hearing.

(2) The Minister shall, unless he dismisses the appeal for the aforementioned ground, send a copy of the notice of appeal and of any further particulars furnished by the appellant to the Council and to the person or persons, if any, who were parties to the proceedings before the service committee or who appear to him to be interested in the appeal.

(3) Subject to the proviso to paragraph (1) of this regulation, the Minister may, if he is of opinion that the case is of such a nature that it can properly be determined without an oral hearing, dispense with an oral hearing and determine the appeal summarily.

(4) In the event of an oral hearing the Council or any person who has received notice of appeal may appear and take such part in the proceedings as the persons holding the inquiry think proper.

(5) For the purpose of an oral hearing the Minister may appoint an officer or officers of the Ministry of Health or some other person or persons, not exceeding three in number, to hold an inquiry and to draw up a report. The Minister, after taking such report into con-

sideration, shall give his decision, which shall be final and conclusive :

Provided that—

(*a*) where one of the parties to an appeal is a medical practitioner and the decision of the Council involves a finding that the practitioner has been guilty of any breach of the terms of service referred to in regulation 11 (3) (*b*) of these regulations the persons appointed to hear the appeal shall include a medical practitioner selected by the Minister from the panel of medical practitioners referred to in that regulation ;

(*b*) where one of the parties to an appeal is a dental practitioner and the decision of the Council involves a finding that the dental practitioner has failed to complete satisfactorily dental treatment, or has failed to exercise reasonable care and skill, the persons appointed to hear the appeal shall include a dental practitioner selected by the Minister from the panel of dental practitioners referred to in regulation 11 of these regulations.

(6)—(*a*) A party to an appeal when an oral hearing takes place shall be entitled to appear and be heard in person, or by counsel or solicitor, or by any officer or member of any organisation of which he is a member or by any member of his family, or by any friend.

(*b*) A Council or other body being a party to any appeal shall be entitled to appear by a member or by their clerk or other officer duly appointed for the purpose or by counsel or solicitor.

(7) A party to an appeal shall not, except with the consent of the Minister or, in the case of an oral hearing, of the person or persons before whom the hearing takes place, be entitled to rely upon any facts or contentions which do not appear to the Minister or to the person or persons holding the inquiry to have been raised before the committee in the course of the proceedings in respect of which the appeal is brought : Provided that this paragraph shall not apply in the case of a hearing if at least seven days before the hearing notice is given in writing to the Minister or to the person or persons holding the inquiry of any new facts or contentions upon which the party intends to rely.

(8) The Council may, with the consent of the Minister, make such contribution as they think fit and if directed by the Minister shall make such contribution as he may determine towards the cost of the appeal incurred by the complainant or by the practitioner or chemist.

Provisions of Local Government Act, 1933, to Apply

10. The provisions of sub-sections (2), (3) and (5) of section 290 of

the Local Government Act, 1933,[1] which relate to the summoning of witnesses, the awarding of costs and other matters, shall apply to any inquiry held by the Minister under the last foregoing regulation as if in sub-section (5) the word " Minister " were substituted for the word " Department."

Procedure on Withholding Money

11.—(1) If the Minister is satisfied :—

(*a*) after considering any report made by a service committee under paragraph (4) of regulation 5 of these regulations and the decision of the Council thereon or the report of the person or persons hearing an appeal against such decision under paragraph (5) of regulation 9 of these regulations or any report of the Tribunal after an inquiry under Part III of these regulations that a practitioner or chemist has failed or neglected to comply with the terms of service applicable to him ; or

(*b*) after considering the report of a medical officer or where a matter has been referred to a Local Medical Committee for consideration under regulation 14 of these regulations the report of the Local Medical Committee or of any other person or persons determining any matter under that regulation that a medical practitioner has failed to comply with sub-paragraphs (12) and (13) of paragraph 7 of the terms of service applicable to him ; or

(*c*) after considering the report of a dental officer or, where a matter has been referred to a Local Dental Committee for consideration under regulation 14 of these regulations, the report of the Local Dental Committee or any other person or persons determining any matter under that regulation that any dental practitioner practising elsewhere than at a health centre has failed to comply with paragraph 5 of the terms of service applicable to him ;

he may direct the Council to recover such amount as he thinks fit either by deduction from the remuneration of the practitioner or chemist or otherwise, and such sum shall be a debt owing by the practitioner or chemist to the Council :

Provided that, except in cases in which the facts have already been the subject of an investigation in the course of an appeal made to the Minister, the Minister shall, before directing that any such amount shall be withheld, afford the practitioner or chemist concerned a reasonable opportunity of making representations to him on the

[1] 23 & 24 Geo. 5, c. 51.

matter and if he decides to make representations orally the Minister shall appoint a person or persons to hear the case. The Council and the Local Medical, Pharmaceutical or Dental Committee as the case may be, shall be entitled to be represented at such hearing and to take such part in the proceedings as the persons appointed to hear the case may think fit.

(2) The persons appointed to hear the oral representations of a practitioner under this regulation shall include a practitioner selected for the purpose by the Minister from the panel of medical or dental practitioners as the case may be hereinafter referred to in this regulation.

(3)—(*a*) An advisory committee (hereinafter referred to as " the medical advisory committee ") shall be constituted for the purpose of assisting the Minister in the discharge of his duties under this regulation in relation to medical practitioners. Before directing the Council to withhold money in respect of an alleged breach of the terms of service applicable to medical practitioners the Minister shall, where such breach is of a kind specified in the following sub-paragraph, and in any other case may, refer the case to such committee and consider any report which they may make to him thereon.

(*b*) Breaches of the terms of service to which the last preceding sub-paragraph of this regulation relates are failure to exercise reasonable skill and care in the treatment of a patient, failure to visit or treat a patient whose condition so requires, failure to order or supply any necessary drugs or appliances for the use of a patient or failure to discharge the obligations imposed on a medical practitioner to give a patient the requisite assistance to enable him to obtain any treatment which is not within the scope of the practitioner's obligations under the terms of service.

(4) The medical advisory committee shall consist of the Chief Medical Officer of the Ministry of Health or his deputy and of two other medical practitioners in the service of the Ministry of Health and of three medical practitioners selected so far as may be in rotation by the Minister from a panel of practitioners who are, or have been, practitioners engaged in the provision of general medical services nominated by a body which is, in the Minister's opinion, representative of practitioners engaged in the provision of general medical services. The Chief Medical Officer, or in his absence his deputy, shall act as chairman.

(5) An advisory committee (hereinafter referred to as " the dental advisory committee ") shall be constituted for the purpose of assisting the Minister in the discharge of his duties under this regulation in relation to dental practitioners. Before directing the Council to

withhold money in respect of an alleged breach of the terms of service applicable to dental practitioners the Minister shall, where such breach consists of failure to complete satisfactorily dental treatment, or failure to exercise reasonable care and skill, and in any other case may, refer the case to such committee and consider any report which they may make to him thereon.

(6) The dental advisory committee shall consist of the Principal Dental Officer of the Ministry of Health or his deputy and two other dental practitioners in the service of the Ministry of Health and of three dental practitioners selected by the Minister from a panel of dental practitioners who are or have been engaged in the provision of general dental services nominated by organisations which are, in the Minister's opinion, representative of the dental profession. The Principal Dental Officer, or in his absence, his deputy, shall act as chairman.

Investigation of Excessive Prescribing

12.—(1) Where it appears to the Minister after an investigation of the orders for drugs and appliances given by a medical practitioner to persons on his list and of the accounts furnished by the practitioner for drugs and appliances supplied to those persons that there is a *primâ facie* case for considering that by reason of the character or quantity of the drugs or appliances so ordered or supplied the cost is in excess of what was reasonably necessary for the proper treatment of those persons, the Minister may refer the matter to the Local Medical Committee for their consideration.

(2) Where a case has been referred to the Local Medical Committee under the preceding paragraph, the Committee shall furnish the practitioner concerned with a statement indicating the matters on which an explanation is required and shall afford him reasonable opportunity of appearing before and being heard by them, or, if he thinks fit, of submitting to them any statement in writing, and a representative or representatives of the Minister shall be entitled in case of a hearing to be heard by the Local Medical Committee.

(3) After considering the case the Local Medical Committee shall decide whether any cost has been incurred in excess of what may reasonably be necessary by reason of the character or quantity of the drugs or appliances ordered or supplied by the practitioner as aforesaid and, if so, what is the amount of the excess cost.

(4) Where the Local Medical Committee have decided that excessive cost has been so incurred by reason of the drugs or appliances ordered or supplied by the practitioner, they shall inform the Council, the practitioner and the Minister of their decision and

may add a statement of any considerations to which in their opinion the Council and the Minister should have regard in making any recommendation or decision with reference to the withholding of money from the practitioner.

(5) The practitioner shall be entitled to appeal against the decision of the Local Medical Committee by sending to the Minister notice of appeal within one month from the date on which notice of the Committee's decision was received. The Minister shall appoint a person or persons (not exceeding three in number and not being officers of the Ministry of Health) of whom at least one shall be a medical practitioner who shall hear and determine the appeal.

(6) If the Minister is dissatisfied with the decision of the Local Medical Committee in any case referred by him to that Committee under paragraph (1) of this regulation he may appoint a person or persons to hear and determine the matter in the manner provided in the last preceding paragraph and the provisions of that paragraph including those relating to the person or persons to be appointed shall apply accordingly.

(7) After consideration of the decision of the Local Medical Committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last foregoing paragraph, after consideration of the decision of the person or persons determining the appeal or matter, the Council shall, if such decision is that excessive cost has been incurred, make a recommendation to the Minister with regard to the withholding of money from the practitioner and the Minister may direct the Council to withhold such sum as he thinks fit and the provisions of regulation 11 of these regulations, including the right of the practitioner to make representations to the Minister, shall apply accordingly.

Investigation of Certification

13.—(1) Where it appears to the Minister, after an investigation of the medical certificates issued under and for the purposes of the National Insurance Acts, 1946, by a medical practitioner to persons for whose treatment he is responsible under the terms of service applicable to him, that there is a *primâ facie* case for considering that the practitioner has failed to exercise reasonable care in the issue of such certificates, the Minister may refer the matter for consideration to the Local Medical Committee or to a joint committee of two or more Local Medical Committees constituted in such manner as he may approve and any reference in this regulation to the Local Medical Committee shall be construed as including any such joint committee.

(2) Any reference to the Committee under the last preceding paragraph shall be accompanied by a statement indicating the matters on which it appears to the Minister that an explanation is required.

(3)—(*a*) The Committee shall furnish the practitioner concerned with a copy of the said statement and shall afford him reasonable opportunity of submitting to them a statement in writing and of appearing before and being heard by them.

(*b*) A copy of any such statement by the practitioner shall be forwarded to the Minister by the Committee for his observations and a representative or representatives of the Minister shall be entitled, in case of a hearing, to attend and be heard by the Committee.

(4)—(*a*) After considering the case the Committee shall draw up a report of their findings on the question whether there has been a failure on the part of the practitioner to exercise reasonable care in certification, and, if so, what is the extent and gravity of the failure, together with a recommendation as to the action, if any, which should be taken by the Minister.

(*b*) The Committee shall forward the report to the Minister and shall furnish the practitioner with a copy of the report.

(5)—(*a*) The practitioner shall be entitled to appeal against any findings of the Committee contained in the report by sending to the Minister notice of appeal within one month from the date on which a copy of the report was received by him and the provisions of paragraph (5) of regulation 12 of these regulations relating to the determination of appeals shall apply accordingly.

(*b*) If the Minister is dissatisfied with any findings of the Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 12 of these regulations and the provisions of that paragraph including those relating to the person or persons to be appointed shall apply accordingly.

(6) After consideration of the findings and recommendation of the Committee or, if an appeal has been made or the matter has been referred for hearing and determination under the last preceding paragraph, after consideration of the findings of the person or persons determining the appeal or matter, the Minister may, if he is satisfied that there has been a failure on the part of the practitioner to exercise reasonable care in certification, direct the Council to withhold such amount as he thinks fit from the remuneration of the practitioner and the provisions of regulation 11 of these regulations, including the practitioner's right to make representations to the Minister, shall apply accordingly.

Investigation of Record Keeping

14.—(1) Where it appears to the Minister, after an examination by the medical officer or the dental officer of any record cards held by a medical practitioner, or a dental practitioner practising elsewhere than at a health centre, that there is a *primâ facie* case for considering that the medical practitioner has failed to carry out his obligations under sub-paragraph (12) of paragraph 7 of the terms of service, so far as such obligations involve the recording of clinical data regarding his patients, or that the dental practitioner has failed to carry out his obligations under paragraph 5 of the terms of service, the Minister may refer the matter for consideration of the Local Medical or Dental Committee, whichever is appropriate.

(2) Any such reference to a Committee shall be accompanied by a statement of the grounds for considering that such obligations have not been fulfilled.

(3)—(*a*) The Committee shall furnish the practitioner concerned with a copy of the said statement and shall afford him reasonable opportunity of submitting to them a statement in writing and of appearing before and being heard by them.

(*b*) A copy of any such statement by the practitioner shall be forwarded to the Minister by the Committee for his observations and a representative or representatives of the Minister shall be entitled, in case of a hearing, to attend and be heard by that Committee.

(4) If so required by notice in writing signed by the chairman of the Committee, the practitioner shall—

(*a*) produce at the hearing all record cards held by him or such of the record cards as may be specified in the notice ;

(*b*) give in the case of a medical practitioner to any members of the Committee specified in the notice or in the case of a dental practitioner to the dental officer, access at all reasonable times to the practitioner's surgery or other place where the record cards are kept, for the purpose of inspection of such record cards and furnish such persons with any such record cards and with any necessary information with regard thereto as they may require.

(5) After considering the case, the Committee shall report to the Minister whether there has been a failure on the part of the practitioner to carry out his said obligations and, if so, the extent and gravity of such failure and shall make a recommendation as to the action, if any, which should be taken by the Minister. A copy of such report shall be forwarded by the Committee to the practitioner.

(6)—(*a*) The practitioner shall be entitled to appeal against any

findings of the Committee contained in the report by sending to the Minister notice of appeal within one month from the date on which a copy of the report was received by him and the provisions of paragraph (5) of regulation 12 of these regulations relating to the determination of appeals shall apply accordingly: Provided that if the appellant is a dental practitioner, a reference to a dental practitioner shall be substituted for the reference to a medical practitioner.

(*b*) If the Minister is dissatisfied with the findings of the Committee he may appoint a person or persons to hear and determine the matter in the manner provided in paragraph (5) of regulation 12 of these regulations as modified by the preceding sub-paragraph and those provisions, including those relating to the person or persons to be appointed, shall apply accordingly.

(7) In this regulation " record cards " means

(*a*) in the case of a medical practitioner, the cards on which he is required to keep records of the illnesses of his patients and of his treatment of them under sub-paragraph (12) of paragraph 7 of the terms of service, and

(*b*) in the case of a dental practitioner, the records which under paragraph 5 of the terms of service he is required to keep of the clinical conditions present in the mouth of the person for whom he is providing general dental services and of the treatment provided by him.

Decisions as to Treatment for which Fees may be Charged

15.—(1) If any question arises, either in the course of an investigation by the medical service committee or otherwise as to whether any treatment given by a medical practitioner to a patient is treatment for which he may demand or accept a fee from that patient (unless it arises in relation to sub-paragraph (1) (*a*) or (*e*) of paragraph 10 of the terms of service or is whether a certificate is reasonably required by the patient under or for the purposes of any enactment), the question shall be referred for determination to the Local Medical Committee. If the Committee and the Council disagree, the matter shall be submitted to referees appointed under these regulations for decision in accordance with the rules set out in the second schedule to these regulations; and the decision of the referees, given after hearing such parties and taking such evidence as they think just, shall be final.

(2) For the purpose of giving effect to this regulation the Minister shall, upon any such disagreement arising, nominate as referees two medical practitioners not being officers of the Ministry of Health

(who shall be selected from any panel of practitioners set up by the Minister for the purpose or if no such panel exists, from among practitioners in actual practice) and one barrister-at-law or solicitor in actual practice.

(3) The referees may decide any question coming before them by a majority but, subject as aforesaid, their procedure shall be such as they may from time to time determine.

(4) If on any question referred to the Local Medical Committee under this regulation the Committee and the Council are agreed, the Council shall report the matter to the Minister and he may, if he thinks fit, refer the question for decision to referees in the manner provided in this regulation and the foregoing provisions of this regulation shall apply accordingly.

Determination of Question Whether a Substance was a Drug

16.—(1) Any question whether a substance supplied by a medical practitioner or chemist on the prescription of a medical practitioner was a drug forming part of pharmaceutical services provided under the Act, shall, if the practitioner concerned so desires in accordance with regulation 17 of these regulations and may, in any other case in which the Council or the Minister think fit, be referred to the Local Medical Committee, and the Council or the Minister, as the case may be, shall inform the Local Pharmaceutical Committee that the question has been so referred.

(2) The Local Medical Committee shall furnish the practitioner concerned with a statement indicating the nature of the question referred to them under this regulation and shall afford him reasonable opportunity of appearing before and being heard by them or, if he thinks fit, of submitting to them any statement in writing.

The Committee shall further consider any representations made to them by the Council or the Minister and, if the practitioner appears before and is heard by them, shall afford an opportunity to a representative of the Council and the Minister of appearing before and being heard by them.

(3) The Committee shall inform the practitioner, the Council and the Minister of the finding at which they have arrived on the question referred to them.

(4) If the practitioner, or the Council are dissatisfied with the finding of the Committee and inform the Minister accordingly within one month from the date on which the notice of the finding was received, the question shall be referred for decision to referees nominated by the Minister under this regulation and if the Minister is dissatisfied with the finding of the Committee he may, if he thinks

fit, also refer the question for decision to referees so nominated.

(5) For the purpose of obtaining a decision under paragraph (4) of this regulation the Minister shall nominate as referees a person or persons (not exceeding three in number and not being an officer or officers of the Ministry of Health) of whom at least one shall be a medical practitioner. The referees may decide any question coming before them by a majority, but, subject as aforesaid, their procedure shall be such as they may determine.

Recovery of Cost of Substance held not to be a Drug

17.—(1) If it appears to the Council that any substance supplied to a person under these regulations was not a drug forming part of pharmaceutical services provided under the Act, the Council shall recover from the practitioner, by deduction from his remuneration or otherwise, an amount calculated in the manner provided in paragraph (2) of this regulation :

Provided that before recovering any such amount the Council shall, unless it has already been decided in accordance with the last foregoing regulation that the substance supplied in that case was not such a drug, bring the question to the practitioner's notice in writing and inquire whether he desires it to be referred for decision under that regulation ; and if the practitioner within one week after the receipt of such notice informs the Council that he desires the question to be so referred, the Council shall refer it to the Local Medical Committee and the provisions of regulation 16 shall apply accordingly.

(2) For the purpose of paragraph (1) of this regulation the amount to be recovered in respect of the supply of any substance shall be a sum calculated in the manner set forth in the Drug Tariff :

Provided that if any substance which was not a drug was an ingredient in a preparation of which other ingredients were drugs, the amount to be recovered shall be the price of that substance calculated in the manner set forth in the Drug Tariff, together with half the amount of the dispensing fee payable in respect of the supply of the preparation.

Appeals from Dental Estimates Board

18.—(1) Any person aggrieved by a decision of the Dental Estimates Board shall be entitled to appeal by sending to the Minister a notice of appeal within one month from the date on which notice of the decision of the Board was received by that person.

(2) The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(3) The Minister shall appoint two dental practitioners, of whom one shall be selected from the panel referred to in paragraph (6) of regulation 11 of these regulations, who shall hear the representations of the appellant and the Dental Estimates Board and determine the appeal.

Power of Local Medical Committee to Consider Complaints

19. The Local Medical Committee shall have power to consider any complaint made to them by any medical practitioner against a medical practitioner practising in the area for which the Committee is constituted involving any question of the efficiency of the general medical services.

Power of Local Pharmaceutical Committee to Consider Complaints

20. The Local Pharmaceutical Committee shall have power to consider any complaint made to them by any chemist against a chemist carrying on business in the area for which the Committee is constituted involving any question of the efficiency of the pharmaceutical services.

Power of Local Dental Committee to Consider Complaints

21. The Local Dental Committee shall have power to consider any complaint made to them by any dental practitioner against a dental practitioner practising in the area for which the Committee is constituted involving any question of efficiency of the general dental services.

Part III

Inquiries Relating to Practitioners and Chemists

Interpretation and Forms

22.—(1) In this part of these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

"inquiry" means an inquiry held in accordance with the provisions of this part of these regulations ;

"representation" means a representation made to the Tribunal that the continued inclusion of a medical practitioner in any medical list or a chemist in any pharmaceutical list or a dental practitioner in any dental list would be prejudicial to the

efficiency of the general medical, pharmaceutical or general dental services as the case may be ;

" complainant " means any person or body making a representation to the Tribunal ;

" respondent " means any practitioner or chemist against whom a representation is made.

(2) The forms set out in the third schedule to these regulations or forms substantially to the like effect shall be used in all cases to which those forms are applicable.

Chairman of Tribunal

23.—(1) The chairman of the Tribunal shall hold office during the pleasure of the Lord Chancellor.

(2) The members of the Tribunal shall hold office during the pleasure of the Minister.

Officers of Tribunal

24. The chairman of the Tribunal shall appoint a person approved by the Minister to act as clerk of the Tribunal and shall also appoint such other officers as may be necessary.

Representation and Preliminary Statement

25.—(1) A representation shall be in writing signed by or on behalf of the complainant and addressed to the clerk of the Tribunal.

(2) The Tribunal may, if they think fit, require the complainant to send them a preliminary statement setting out the alleged facts and grounds on which the representation is based and, where a fact is not within the personal knowledge of the complainant, the source of the information and grounds for the belief of the complainant that the information is true, together with such further particulars as they may think necessary and they may require the preliminary statement to be verified by statutory declaration.

Power to Refuse Inquiry

26. If it appears to the Tribunal, after due consideration of any representation or of any preliminary statement furnished to them by the complainant, not being a Council, that no good cause has been shown why an inquiry should be held, they may refuse to hold an inquiry and shall inform the complainant accordingly.

Notices to be Sent in Case of Inquiry

27.—(1) The Tribunal shall, in all cases where an inquiry is to be held, send the following notices, namely :—

Form 1

(*a*) A notice to the respondent informing him that it is proposed to hold an inquiry as to the representation made by the complainant ; and

Form 2 *and* 2*A*

(*b*) A notice to the complainant informing him that it is proposed to hold an inquiry as to the representation made by him and requiring him, within a time specified in the notice, to send to the Tribunal a concise statement of the alleged facts and grounds on which the representation is based (in this part of these regulations referred to as " the statement of complaint ") together with a list of all the documents which he proposes to put in evidence :

Provided that where the complainant has sent a preliminary statement to the Tribunal, the Tribunal may, if they think fit, dispense with a statement of complaint and in that case the preliminary statement shall, for the purposes of the inquiry, be treated as the statement of complaint.

(2) The Tribunal may, if they think proper, on the application of the complainant extend the time for sending to them the statement of complaint.

Respondent May Admit or Deny Allegations—Form 3

28. The Tribunal shall send to the respondent a copy of the statement of complaint and of the list of documents which the complainant proposes to put in evidence together with a notice informing him that he may, if he so desires, within a time specified in the notice, by a statement in writing addressed to the clerk of the Tribunal, admit or dispute the truth of all or any of the allegations appearing in the statement of complaint.

Amendment of Statement of Complaint

29. The Tribunal at any time before the conclusion of the inquiry, may allow the statement of complaint to be amended upon such conditions as they may think just.

Right of Respondent to Inspect Documents

30.—(1) The respondent may, on giving due notice to the complainant, inspect, either personally or by an agent authorised in writing, the documents included in the list sent by the complainant to the Tribunal and the complainant shall give reasonable facilities for the purpose.

(2) The respondent shall be entitled, on making application to the Tribunal, to a copy of any document in that list and the Tribunal may require the complainant to furnish to the clerk of the Tribunal a copy of the document for the respondent's use.

Notice of Inquiry to be Given—Form 4

31.—(1) The Tribunal shall appoint a day for the holding of the inquiry and shall, not less than fourteen days before the appointed day, send notices to the complainant and the respondent informing them of the date, time and place of the inquiry.

Form 5

(2) The Tribunal shall if they think fit also send to any other Council on whose medical, pharmaceutical or dental list the name of the respondent appears, notice of the date, time and place of the inquiry and each such Council may appear and take such part in the proceedings at the inquiry as the Tribunal shall think proper.

Power to Postpone Inquiry

32. The Tribunal may, if they think fit or on the application of either party, postpone the date for the holding of the inquiry.

Power to Treat Representation as Withdrawn in Certain Cases

33. If the complainant fails, within the time specified in the notice or within any extended period, to send a statement of complaint to the Tribunal or if he fails to comply with any other requirement of this part of these regulations, the Tribunal may treat the representation as having been withdrawn.

Withdrawal of Representation

34.—(1) The complainant may at any time before the inquiry, with the consent of the Tribunal and on such terms as the Tribunal think fit, withdraw the representation by giving notice of withdrawal in writing to the clerk of the Tribunal.

(2) Where the representation has been withdrawn or is treated by the Tribunal as having been withdrawn, the Tribunal shall (without prejudice to their power to hold an inquiry as hereinafter provided) forthwith inform the respondent that the representation has been withdrawn or is treated as having been withdrawn, as the case may be.

Procedure at Inquiry

35. The proceedings shall be held *in camera* unless the respondent has applied for the inquiry to be held in public but otherwise the

procedure at the inquiry shall be within the discretion of the Tribunal.

Appearance by Representatives

36.—(1) Any Council or other body (whether corporate or incorporate) entitled to appear at the inquiry may appear by their clerk or other officer duly appointed for the purpose or by counsel or solicitor.

(2) The complainant and the respondent shall be entitled to appear and be heard at the inquiry in person or by counsel or solicitor, or by any officer or member of any organisation of which he is a member, or by any member of his family, and shall be entitled to call witnesses and to produce other evidence upon his behalf.

Provisions of Local Government Act, 1933 to Apply

37. The provisions of sub-sections (2), (3) and (5) of section 290 of the Local Government Act, 1933,[1] which relate to the summoning of witnesses, awarding of costs and other matters shall apply to an inquiry held under this part of these regulations as if in sub-section (5) the word "Tribunal" were substituted for the word "Department."

Power to Suspend Proceedings in Certain Cases

38. Where it appears to the Tribunal that the alleged facts on which any representation is based are or may be the subject of investigation by any other tribunal, they may, if they think fit, direct that no further steps shall be taken under this part of these regulations pending the issue of such other investigation.

Power to Dispense with Oral Inquiry

39. Notwithstanding anything in this part of these regulations, where the grounds on which any representation is based consist solely of an allegation that the respondent has been convicted of a criminal offence and he admits the truth of such allegation, the Tribunal may, with the consent of the respondent, dispense with an oral inquiry and determine the case upon such documentary evidence as may be submitted to them.

Report by Tribunal

40.—(1) At the conclusion of the inquiry the Tribunal shall, as soon as may be, issue a statement under the hand of the chairman containing their findings of fact, the conclusion which they have

[1] 23 & 24 Geo. 5, c. 51.

reached and such directions as they may give under subsection (3) of section 42 of the Act, and any order they may decide to make with respect to the costs of the parties.

(2) A copy of such statement shall be forwarded by the Tribunal to the Minister, the respondent and the complainant, and the Minister shall send a copy of the statement to such Councils as appear to him to be concerned.

Appeal to Minister

41. The Tribunal shall give notice to the respondent of his right of appeal to the Minister against any direction given by them for the removal of his name from any list, and the right may be exercised by submitting to the Minister a notice of appeal within fourteen days after such notice has been forwarded to the respondent, or within such further time as the Minister may allow.

The notice of appeal shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

Procedure on Appeal

42.—(1) The Minister shall appoint a person to hear the appeal and report thereon to him. He shall also appoint :—

(*a*) where the appellant is a medical practitioner, a medical practitioner from the panel of medical practitioners referred to in regulation 11 of these regulations ; or

(*b*) where the appellant is a chemist, a registered pharmacist ; or

(*c*) where the appellant is a dental practitioner, a dental practitioner from the panel of dental practitioners referred to in regulation 11 of these regulations

for the purpose of assisting the person hearing the appeal.

The Minister shall consider the report made by the person hearing the appeal and in the case of a medical or dental practitioner any recommendation made by the medical or dental advisory committee constituted under regulation 11 of these regulations to whom he shall refer such report and thereafter give his decision and shall send a notice thereof to the appellant, the Tribunal, the complainant and such Councils as may appear to him to be concerned.

(2) Regulations 30, 31, 32, 35 and 36 of these regulations shall, with the necessary modifications, apply to the hearing of appeals under this regulation in like manner as to an inquiry.

(3) The appellant may, at any time before the day appointed for the hearing, withdraw the appeal by giving notice of such withdrawal in writing to the Minister.

(4) When an appeal has been withdrawn the Minister shall forthwith confirm the direction of the Tribunal.

Publication of Decisions of Tribunal, etc.

43. Notice of any decision of the Tribunal or the Minister under section 42 of the Act and of the imposition and removal of any disqualification imposed by virtue of subsection (6) of the said section (which provides for the removal from lists in England and Wales of persons who have been disqualified for inclusion in similar lists in Scotland) shall be published by the Minister in such manner as he thinks fit.

Part IV

Notices

Service of Notices, etc.

44.—(1) Any document which is required or authorised by these regulations to be given to or served on any person may be given or served either—

(*a*) by delivering it to that person ; or

(*b*) in the case of the Minister, the Tribunal or any Council, or committee, by delivering it to their secretary or clerk or by sending it in a prepaid letter, addressed to them at their principal office ; or

(*c*) in the case of a practitioner or chemist, by sending it in a prepaid letter addressed to him at the address given in the list in which he is included ; or

(*d*) in any other case, by sending it in a prepaid letter addressed to him at his usual or last known address.

(2) Where a party to an inquiry is represented by a solicitor it shall be a sufficient compliance with this regulation if the document required to be given or served is sent by post to the solicitor at his professional address.

(3) Until the contrary is proved, any document sent as aforesaid shall be deemed to be served at the time at which a letter would be delivered in the ordinary course of post.

Power to Dispense with Requirements as to Notices

45. The Minister or the Tribunal may dispense with any requirements of these regulations respecting notices, applications, documents or otherwise in any case where it appears to the Minister or the Tribunal just and proper to do so.

Part V

The Isles of Scilly

Application of Regulations

46. These regulations shall extend to the Isles of Scilly subject to the following exceptions, adaptations and modifications :—

(*a*) Any provision in the regulations requiring consultation with, or the opinion of the Local Medical, Pharmaceutical or Dental Committees in respect of any matter shall not apply to the Council unless a Local Medical, Pharmaceutical or Dental Committee has been formed for the Isles and recognised by the Minister under section 32 of the Act.

(*b*) For regulation 3 there shall be substituted the following provision :—

" 3.—(1) The Council shall appoint a medical service committee, a pharmaceutical service committee, a dental service committee, and a joint services committee.

(2) Each committee shall consist of a chairman and such other members as the Council shall think fit.

(3) The following provisions shall have effect with regard to the appointment of the chairman of each of the said committees :—

(*a*) The chairman shall be appointed at a meeting of the members of the committee to be specially summoned for the purpose. The chairman of the Council or, if he is a member of the committee or is unable to attend, the vice-chairman or some other member of the Council (not being a member of the committee) to be nominated by the chairman shall preside at the meeting but shall not be entitled to vote. The appointment shall be made by a majority of the votes cast at the meeting.

(*b*) The persons eligible for appointment shall be any member of the Executive Council being also a member of the Council of the Isles of Scilly.

(*c*) The foregoing provisions with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman.

(*d*) If the person appointed as chairman or deputy chairman of a committee is already a member of the committee, he shall thereupon cease to be a member other than as chairman or deputy chairman, and a new member shall be appointed to take his place.

(4) If in the opinion of the chairman any member of a committee is interested, or is partner, principal, assistant or manager to a practitioner or chemist who is interested, in a question referred to them, that member shall take no part in the hearing thereof.

(5) The deputy chairman if the chairman is absent shall exercise and perform the powers and duties of the chairman, and shall otherwise be entitled to be present at, and take part in, the proceedings of the committee, but not to vote.

(6) The Council may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the committee : Provided that the term of office of the chairman shall not exceed one year unless he is re-appointed."

(*c*) Regulations 12, 13, 14, 15, 16 and 17 shall not apply to the Isles.

FIRST SCHEDULE

Rules of Procedure under Regulation 5

Procedure of Medical, Pharmaceutical and Dental Service Committees

1.—(1) Where under the provisions of the regulations any question or matter is required to be investigated by any medical, pharmaceutical or dental service committee, the following procedure shall be adopted :—

(*a*) If in the opinion of the chairman the statement made by the complainant discloses no prima facie ground of complaint, or is frivolous or vexatious, the clerk of the Council shall so inform the complainant and shall invite him within seven days to submit a further statement. If no further statement is submitted by the complainant within that period, or if the statement so submitted does not in the opinion of the chairman render a hearing of the case necessary, the case shall be brought before the committee which shall have power to dispense with a hearing and to report on the matter forthwith.

(*b*) The clerk of the Council shall, as soon as practicable, send to the chairman of the appropriate committee and to the practitioner or chemist concerned a copy of the complainant's statement and any ensuing correspondence on the matter.

(*c*) Except in cases dealt with under (*a*) without a hearing the clerk shall give to both parties and to the secretary of the Local Medical, Pharmaceutical or Dental Committee, as the case may be, not less than fourteen days' notice of the meeting at which the case will be heard.

(*d*) The chairman may, upon the application of either party, postpone the hearing if he is satisfied that the attendance of the party or any witness on the date fixed for the hearing is not reasonably practicable or if for any other reason he thinks fit.

(*e*) The clerk shall three clear days before the hearing supply to

each member of the committee copies of the statement and the reply, if any, thereto, and of any further correspondence relating to the matter which has taken place between the clerk and either party.

(*f*) Either party shall be entitled to be present at the hearing and to give and call such evidence as the committee may think relevant to the matters at issue, and may put questions relevant to the matter in dispute to the other party or to any witness called by him, either directly, or, if the committee so direct, through the chairman of the committee. Subject as aforesaid, the procedure at the hearing shall be such as the committee may determine.

(*g*) If either party fails to appear at the hearing, and the committee are satisfied that his absence is due to illness or other reasonable cause, or if for any other reason the committee think fit, they may adjourn the hearing.

(*h*) If in the course of a hearing the complainant introduces any issue which in the opinion of the chairman was not sufficiently disclosed in the written statement or statements sent to the respondent, it shall be within the discretion of the chairman to admit or exclude such issue as he thinks fit, but if the issue is admitted the hearing will be adjourned if the respondent desires an opportunity of producing further evidence, and desires an adjournment for that purpose.

(*i*) In the case of any medical service committee the chairman, together with one lay member and one medical member and in the case of any pharmaceutical service committee the chairman, together with one lay member and one pharmacist member, and in the case of any dental service committee the chairman together with one member and one dental member shall form a quorum.

(2) The foregoing provisions of this schedule shall apply to cases which are referred to any medical, pharmaceutical or dental service committee by the Council or by any other committee with such modifications as the circumstances may require.

(3) Where a case has been opened before any committee and the meeting is adjourned for the purpose of hearing further evidence or of preparing or considering the report, a member of the committee who was not present at the meeting shall not be entitled to be present or take part in the proceedings at the adjourned meeting, and it shall not be necessary for the cleark to send him notice of such meeting.

Procedure of Joint Services Committees

2. Where any question is referred to any joint services committee the following procedure shall be adopted :—

(*a*) The clerk of the Council shall, as soon as practicable, send to the chairman of the committee and to the practitioner and chemist (if any) concerned a copy of the complainant's statement and any ensuing correspondence on the matter.

(*b*) A quorum shall be formed by the chairman together with one lay member and, in the case of a question relating to

(i) a medical practitioner and a chemist, one medical member and one pharmaceutical member ;

(ii) a chemist and a dental practitioner, one pharmaceutical member and one dental member ;

(iii) a medical practitioner and a dental practitioner, one medical member and one dental member.

(*c*) Subject as aforesaid, the procedure of any joint services committee shall be similar to that of a medical service committee with such modifications as are rendered necessary by the inclusion of a third party.

Interpretation

3. In these rules, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" chairman " includes a deputy chairman acting in his place.

" member " includes a deputy member acting in the place of a member.

" lay member " means a member appointed to the medical, pharmaceutical or dental service committees or the joint services committee by and from the members of the Council who were appointed by the local health authority or the Minister.

" medical member," " pharmaceutical member " or " dental member " of a service committee means a member appointed by the Local Medical, Pharmaceutical or Dental Committee, as the case may be, and in the case of a services committee a member appointed by and from the medical, pharmaceutical or dental members of the medical, pharmaceutical or dental service committee.

SECOND SCHEDULE

Rules of Procedure under Regulation 15

1. Where a Council and a Local Medical Committee fail to agree as to the decision of any question

(1) The Council shall prepare and submit to the Committee a written statement of the facts in connection with which the question has arisen and of the decision given by the Council and the grounds on which the decision is based.

(2) The Committee shall, as soon as may be after receipt of the said statement, furnish to the Council a written statement of the decision given by the Committee and the grounds on which the decision is based and shall inform the Council whether it concurs in the statement of facts prepared by the Council and, if not, in what respects it does not concur in that statement.

(3) The Council shall send the statements prepared by the Council and the Committee to the Minister and he may, if he thinks fit, require both or either of the said bodies to furnish to him further particulars either with regard to the facts of the case or the decision or the grounds of the decision.

2. Where the Minister thinks fit to refer for decision to referees any question on which the Council and the Committee are agreed, the Minister may require either or both of the said bodies to furnish written statements of the facts in connection with which the question has arisen and of their decision and the grounds on which the decision is based and the Minister shall inform the body or bodies furnishing such statements whether he concurs in the statement of facts contained

therein and, if not, in what respect he does not concur therein and shall further inform the body or bodies of his grounds for disagreeing with their decision.

3. The Minister shall furnish copies of all such documents to each of the referees appointed by him for the purpose of deciding the question.

4. If the referees on consideration of such documents are of the opinion that the question referred to them is similar to a question previously determined by referees under regulation 15 of these regulations they may dispense with a hearing and determine the case summarily.

5. Except in a case in which the referees dispense with a hearing in accordance with the last foregoing rule the Minister shall fix the time and place of the hearing and shall give not less than twenty-one days' notice thereof to the Council and the Committee.

6. Each body shall be entitled to appear at the hearing by the chairman, clerk or secretary of the body or by counsel or solicitor and the Minister may appear by one of his officers and the bodies and the Minister may produce such evidence as in the opinion of the referees may be relevant to the matters at issue.

7. The referees shall, as soon as may be after the hearing or after determining a case summarily, report to the Minister the decision at which they have arrived.

THIRD SCHEDULE

Forms for use in proceedings before Tribunal

Form 1

Notice to the respondent of intention to hold inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

Take notice that a representation has been made by of to the Tribunal that your continued inclusion in the † list of the Executive Council would be prejudicial to the efficiency of the ‡ services provided under Part IV of the Act, and that it is proposed to hold an inquiry with respect to the above representation.

A statement of the alleged facts and grounds on which the above representation is based will be sent to you as soon as possible, and notice of the date appointed for the holding of the inquiry will follow in due course.

A copy of the National Health Service (Service Committees and Tribunal) Regulations, 1948, is enclosed herewith for your information.

Signed,

Clerk of the Tribunal.

Dated.....

* State whether respondent is a medical or dental practitioner or chemist.

† State whether medical, pharmaceutical or dental list.

‡ State whether general medical, pharmaceutical or general dental.

FORM 2.

Notice to complainant of intention to hold inquiry.

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

Take notice that it is proposed to hold an inquiry with respect to the representation dated the day of 19 , made by you to the Tribunal to the effect that the continued inclusion of the above-named respondent in the † list of the Executive Council would be prejudicial to the efficiency of the ‡ services provided under Part IV of the Act.

You are hereby required within days after receipt of this notice to set out on the accompanying form—

(*a*) a concise statement of the alleged facts and grounds on which your said representation is based; and

(*b*) a list of all the documents (if any) which you propose to put in evidence at the inquiry.

and to forward the form to me.

Notice of the day appointed for the holding of the inquiry will be sent to you in due course.

A copy of the National Health Service (Service Committees and Tribunal) Regulations, 1948, is enclosed herewith for your information.

Signed

Clerk of the Tribunal.

Dated .....

* State whether respondent is a medical or dental practitioner or chemist.

† State whether medical, pharmaceutical or dental.

‡ State whether general medical, pharmaceutical or general dental.

FORM 2A

Statement of complaint

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To the Clerk of the Tribunal,

The facts and grounds on which the representation made by me with respect to the above-named is based, are as follows :—

[Here set out concise statement of facts and grounds.]

The following is a list of all the documents which I propose to put in evidence :—

[Here set out list of documents.]

Signed

Dated .....

* State whether respondent is a medical or dental practitioner or chemist.

FORM 3.

Notice to respondent of alleged facts and grounds on which representation is based.

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

With reference to the representation made by of concerning you (of which representation due notice was given to you dated the day of 19) I am directed by the Tribunal to send you a copy of the statement of complaint received by the Tribunal from the said setting out the alleged facts and grounds on which the said representation is based, together with a list of all documents proposed to be put in evidence by him.

You may if you so desire, inform the Tribunal, by statement in writing addressed to me within days after receipt of this notice, whether you admit or dispute the truth of all or any of the allegations appearing in the statement of complaint.

You are further entitled to inspect any of the documents mentioned in the above list, either personally or by an agent authorised in writing, on giving due notice to the above-named and, by applying to the Tribunal for that purpose, to receive copies of any of the said documents.

Signed

Clerk of the Tribunal.

Dated .....

* State whether respondent is a medical or dental practitioner or chemist.

FORM 4

Notice to complainant or respondent of day appointed for holding of inquiry

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To of

With reference to the representation made by you with respect to the above-named respondent by of with respect to you.

Take notice that the Tribunal will on day the day of 19 , at a.m. / p.m. at hold an inquiry to investigate the said representation.

You are hereby informed that if you do not attend on the date at the time and place appointed for the inquiry, the Tribunal may proceed to hold the inquiry in your absence.

Signed

Clerk of the Tribunal.

Dated.....

* State whether respondent is a medical or dental practitioner or chemist.

FORM 5

Notice of inquiry to be sent to any Executive Council which is not the complainant

In the matter of a*

and

In the matter of the National Health Service Act, 1946.

To the Executive Council for

Take notice that a representation has been made by of to the Tribunal to the effect that the continued inclusion of the above-named respondent in the † list of the Executive Council would be prejudicial to the efficiency of the ‡ services provided under Part IV of the said Act.

You are hereby informed that an inquiry to investigate the said representation will be held by the Tribunal on day the day of 19 , at a.m. / p.m. at and that you are entitled to appear and take such part in the proceedings as the Tribunal shall think proper.

A copy of the statement of complaint is enclosed for your information.

Signed

Clerk of the Tribunal.

Dated.....

* State whether respondent is a medical or dental practitioner or chemist.
† State whether medical, pharmaceutical or dental.
‡ State whether general medical, pharmaceutical or general dental.

EXPLANATORY NOTE

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

The regulations provide for disciplinary matters and the determination of disputes arising in connection with the provision of general medical and dental services and pharmaceutical services under Part IV of the National Health Service Act, 1946. Provision is made for the constitution by an Executive Council of service committees, for their investigation of complaints and for the action which may be taken against practitioners on such complaints. In certain cases it is provided that disputes may be referred to Local Medical or Dental Committees. The regulations include provisions governing the procedure before the Council, the service committees, and the Local Medical and Dental Committees, and for appeals against the decisions of these bodies.

The regulations further prescribe the procedure to be followed in the hearing of representations for the removal of a practitioner or chemist from a list under section 42 of the Act.

(S. I. 1948, No. 441)

The National Health Service (Executive Council for the Isles of Scilly) Regulations, 1948

Made	3*rd March*, 1948
Laid before Parliament . .	4*th March*, 1948
Coming into Operation . .	1*st April*, 1948

The Minister of Health, in exercise of his powers under paragraph 3 of the Fifth Schedule to the National Health Service Act, 1946,[1] as extended to the Isles of Scilly by the Isles of Scilly (National Health Service) Order, 1948,[2] and of all other powers enabling him in that behalf hereby makes the following regulations :—

Part I

General

1. These regulations may be cited as the National Health Service (Executive Council for the Isles of Scilly) Regulations, 1948, and shall come into operation on the first day of April, 1948.

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the Order " means the Isles of Scilly (National Health Service) Order, 1948 ;

" the council " means the Executive Council for the Isles of Scilly as constituted under the Order.

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

Term of Office of Members, Casual Vacancies, etc.

3. The clerk of the council shall forthwith give notice in writing to the Minister of the name and address of any person who becomes a member of the council in accordance with paragraphs (*a*) and (*b*) of the schedule to the Order :

Provided that pending the appointment of a clerk of the council any such notice shall be given by the chairman of the council.

4.—(1) The first chairman and the other original members appointed by the Minister shall hold office until the 31st day of March, 1949.

[1] 9 & 10 Geo. 6, c. 81.
[2] S. I. 1948, No. 167.
[3] 52 & 53 Vict., c. 63.

(2) Subject as aforesaid the term of office of members appointed by the Minister shall be three years :

Provided that at the expiration of his term of office a member shall be eligible for reappointment.

5. The council shall appoint a member to be vice-chairman, and any person so appointed shall, so long as he remains a member of the council, hold office for such period as may be specified in the resolution under which he is appointed.

6.—(1) A member of the council who desires to resign his membership thereof shall give notice in writing to the clerk of the council, or, in the case of the chairman, to the Minister.

(2) If a member of the council has not attended any meeting of the council or of any committee for a period of six months, the clerk of the council shall inform the council, and unless the council is satisfied that his absence was due to illness or other reasonable cause it shall declare that his seat on the council has become vacant.

7. Subject to paragraphs (ii), (iii) and (v) of the proviso to subsection (1) of section 59 of the Local Government Act, 1933,[1] the provisions of paragraphs (*b*) and (*e*) of that subsection (which disqualify a person for being elected or being a member of a local authority if he has been adjudged bankrupt or made a composition or arrangement with his creditors or has been sentenced to imprisonment for not less than three months without the option of a fine) shall apply as if the section related to membership of the council.

8. If a casual vacancy occurs by reason of the death, resignation or disqualification of a member of the council appointed by the Minister, the clerk of the council shall forthwith inform the Minister.

9. Any person appointed to fill a casual vacancy shall hold office for the remainder of the term of office of the person in whose place he is appointed.

PART II

Procedure of the Council

General Provisions

10.—(1) At every meeting of the council, the chairman, if present, shall preside.

(2) If the chairman is absent from any meeting, the vice-chairman shall, if present, preside, and if the chairman and vice-chairman are both absent the members present at the meeting shall elect from among themselves a person to act as chairman for that meeting.

[1] 23 & 24 Geo. 5, c. 51.

(3) Every question at a meeting of the council shall be determined by a majority of the votes of the members of the council present and voting on the question, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote.

11. Minutes of the proceedings at every meeting of the council and a record of the attendance of the members of the council shall be duly kept by the clerk.

12.—(1) The council shall appoint a person approved by the Minister to act as clerk of the council and shall also appoint such other officers as may be necessary. The resolution appointing the clerk shall embody the terms on which the appointment is made.

(2) When an officer has attained the age of 65 years he shall cease to hold his office :

Provided that the council may in exceptional circumstances, with the consent of an officer and of the Minister, by resolution extend his period of service for one year or any less period, and so on from time to time.

(3) The council shall pay to the clerk and to their other officers remuneration in accordance with the scales from time to time approved by the Minister, or such remuneration as the Minister may in special circumstances authorise.

(4) No member of the council or person who has at any time in the previous twelve months been a member of the council shall be appointed to the office of clerk or any other office under the council.

13.—(1) The council shall appoint a committee to be called the finance committee which shall consist wholly of members of the council and may appoint such further committees as they think fit which shall consist either wholly or partly of members of the council as the council may determine, provided that at least a majority of the members of the committee shall be members of the council.

(2) Subject to the provisions of any regulations relating to the finance committee, the council may delegate to any committee any of the powers and duties of the council, and any resolution of the council appointing a committee shall define the powers and duties delegated to them and the term of office of the members :

Provided that—

(i) No expenditure shall be incurred by any committee without the consent of the council ; and

(ii) Every committee shall report their proceedings to the council at such times and in such manner as the council may direct.

(3) Every committee shall appoint a chairman and subject as

aforesaid and to any standing orders of the council relating to committees the provisions of these regulations relating to the duties of the chairman and the provisions relating to the vice-chairman, and proceedings of the council shall apply to committees as they apply to the council, with the substitution of the committee for the council.

14. The council may make, vary and revoke standing orders for the regulation of the proceedings and business of the council and of the committees and in particular—

(*a*) for the times and places of the meetings of the council or committee which in the case of the council shall be held not less often than once in every three months ;

(*b*) for due notice of the time and place of each meeting of the council or any committee and, subject to any exceptions which may be mentioned in the standing orders, of the business to be transacted thereat, to be given to members ;

(*c*) for the suspension of a member who is guilty of persistent disorder ;

(*d*) for providing that, subject to such exceptions and qualifications as may be specified in the standing orders, if a member has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter (not being a contract for the provision of one of the services mentioned in Part IV of the Act) and is present at a meeting of the council or committee at which the contract or other matter is the subject of consideration, he shall at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter ;

(*e*) for such number of members of the council or committee, not being less than one-third of the whole number, as the standing order may specify to form a quorum.

15. Nothing in this part of these regulations shall apply (except so far as it may be specifically applied) to a committee constituted for any purpose for which a committee is authorised or required to be appointed by any other provisions for the time being in force.

16. The council may provide itself with offices and in the case of a joint committee established under subsection (4) of section 31 of the Act, the council may combine with other constituent councils in providing the joint committee with offices.

PART III

Subscriptions to, and Payment of Expenses of Members Attending Meetings of an Association of Executive Councils

17. The council may pay any sum, not exceeding in respect of any year ten pounds or such higher amount as the Minister approves not exceeding twenty pounds, as a subscription to the funds of any association of councils whose objects are approved by the Minister, and also the travelling and subsistence expenses reasonably incurred by representatives not exceeding in any case four in attending any meetings of any such association in accordance with rates prescribed under and for the purposes of paragraph 3 (*c*) of the Fifth Schedule to the Act.

(S. I. 1948, No. 567)

The National Health Service (Transfer of Local Authority Functions) Regulations, 1948

Made	19*th March*, 1948
Laid before Parliament . .	23*rd March*, 1948
Coming into Operation . .	1*st April*, 1948

The Minister of Health in pursuance of the powers conferred on him by section 69 of the National Health Service Act, 1946,[1] hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Transfer of Local Authority Functions) Regulations, 1948, and shall come into force on the first day of April, 1948.

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them :—

" the Act " means the National Health Service Act, 1946 ;

" the Minister " means the Minister of Health ;

" Council " means the Common Council of the City of London, the Council of a Metropolitan Borough or the Council of a county district ;

" appointed day " means the 5th day of July, 1948.

(2) The Interpretation Act, 1889,[2] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3.—(1) Subject to the provisions of these regulations there shall on the appointed day be transferred to and vest in the local health

[1] 9 & 10 Geo. 6, c. 81. [2] 52 & 53 Vict., c. 63.

authority by virtue of these regulations all property and liabilities held by a Council, or to which a Council is subject, immediately before the appointed day being property or liabilities held or incurred solely for the purpose of carrying out functions which by virtue of the Act are transferred from the Council to the local health authority.

(2) The property and liabilities transferred as aforesaid shall include the unexpended balances of any loans raised by the Council solely for the said purpose and any sinking fund established by the Council in connection with any such loan.

(3) The local health authority and the Council may agree that, in lieu of a transfer of a loan, the local health authority shall from time to time repay to the Council all sums required to meet the loan charges; and in the event of any such agreement being made the loan and any such sinking fund as aforesaid shall not be transferred to the local health authority.

(4) This regulation shall not apply to rights and liabilities arising under contracts for the rendering of personal services or to rights and liabilities arising under any enactment scheme or contract for the payment of superannuation benefits.

4.—(1) If not later than six weeks before the appointed day a Council or a local health authority submit to the Minister a representation in writing that it is inexpedient that any property or liability should be transferred to the local health authority under regulation 3 the provisions of that regulation shall not apply to such property or liability until the Minister by order so determines.

(2) Where any such representation as aforesaid is made the Minister may by order determine either that the provisions of regulation 3 shall apply to the property or liability as from the date of the order or that, subject to such conditions as he may thereby impose, the property or liability shall not be transferred.

5.—(1) Where immediately before the appointed day any property is held by a Council or a Council is subject to any liability, and the property or liability is held or incurred partly for the purpose of carrying out functions which by virtue of the Act are transferred from the Council to the local health authority and partly for some other purposes, the Council and the authority may make agreements for the purpose of adjusting such property or liability and the agreements may provide for the transfer or retention of any property or liability with or without conditions and for the joint use of any property on such terms as may be agreed.

(2) In default of agreement as to any matter requiring adjustment under this regulation such adjustment shall be made in such manner as the Minister may by order direct.

6. The Minister may, at the request of the local health authority to which or the Council from which, any property or liability is transferred by virtue of regulation 3 of these regulations, by order amend any document relating to the said property or liability to such extent as appears to the Minister to be necessary for the purposes of the transfer.

7. Any proceedings with respect to any property or liability transferred to a local health authority by virtue of regulation 3 of these regulations or any functions transferred from the Council to a local health authority by virtue of the Act and pending on the appointed day shall not be prejudicially affected by these regulations or by the Act and any such proceedings may be amended in such manner as may appear necessary or proper for enabling them to be prosecuted and enforced by or against the local health authority.

8. Subject to the provisions of regulation 3 (4) all agreements made or any other acts done by or in relation to a Council for the purpose of carrying out functions which on the appointed day are transferred to a local health authority shall be of full force and effect against or in favour of the local health authority and may be enforced as fully and effectually as if, instead of the Council, the local health authority had been a party thereto.

9. Save as otherwise provided, any question arising under these regulations shall in default of agreement be determined by the Minister.

(S. I. 1948, No. 575)

The National Health Service (Central Health Services Council and Standing Advisory Committees) Regulations, 1948

Made	19*th March*, 1948
Laid before Parliament . .	23*rd March*, 1948
Coming into Operation . .	1*st April*, 1948

The Minister of Health in exercise of his powers under paragraph 2 of the First Schedule to the National Health Service Act, 1946,[1] hereby makes the following regulations :—

1. These regulations may be cited as the National Health Service (Central Health Services Council and Standing Advisory Committees) Regulations, 1948, and shall come into operation on the first day of April, 1948.

[1] 9 & 10 Geo. 6, c. 81.

2.—(1) In these regulations unless the context otherwise requires the following expressions have the respective meanings hereby assigned to them :—

" the Minister " means the Minister of Health ;

" Council " means the Central Health Services Council ;

" Advisory Committee " means a Standing Advisory Committee constituted under section 2 of the Act ;

" appointed member " in relation to the Council means a person who is a member of the Council otherwise than by virtue of holding one of the offices referred to paragraph 1 in of the First Schedule to the Act ; and

" the Act " means the National Health Service Act, 1946.

(2) The Interpretation Act, 1889,[1] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. One third (as near as may be) of the original appointed members of the Council shall go out of office on the thirty-first day of March, 1950, another third (as near as may be) on the thirty-first day of March, 1951, and the remainder on the thirty-first day of March, 1952.

4.—(1) A person appointed to be a member of an Advisory Committee by reason of his membership of the Council and his experience in the service with which the Committee is concerned shall, subject to regulation 5 (2), hold office for so long as his membership of the Council continues :

Provided that for the purpose of this paragraph such a member of the Council shall not be deemed to discontinue his membership thereof if on the termination of his period of office as a member of the Council he is reappointed thereto.

(2) Of the original members of an Advisory Committee, other than those to whom paragraph (1) of this regulation relates, one third (as near as may be) shall be appointed for a period ending on the thirty-first day of March in the second year following the year in which the Committee is constituted, another third (as near as may be) for a period ending on the thirty-first day of March in the third year, and the remainder on the thirty-first day of March in the fourth year.

5.—(1) Subject as in these regulations provided, the appointed members of the Council and the members of any Advisory Committee shall be appointed for a period expiring on the thirty-first day of March in the third year following the year in which they are appointed.

[1] 52 & 53 Vict., c. 63.

(2) Any appointed member of the Council or any member of an Advisory Committee may resign on giving notice in writing to the Minister.

(3) A person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor was appointed.

(4) Any member shall on the expiration of his term of office, be eligible for re-appointment.

(S. I. 1948, No. 656)

The National Health Service (Designation of Teaching Hospitals (No. 1)) Order, 1948

Made . . . . *24th March*, 1948

Text of order omitted.

EXPLANATORY SUMMARY

(*This Summary is not part of the order, but is intended to indicate its general purport.*)

This order is made by the Minister of Health under section 11 (8) of the National Health Service Act, 1946 for the purpose of designating certain hospitals and groups of hospitals outside the Metropolitan area as teaching hospitals, viz., groups to be known as the United Newcastle-upon-Tyne Hospitals (Durham University); United Leeds (Leeds University); United Sheffield (Sheffield University); United Cambridge (Cambridge University); United Oxford (Oxford University); United Bristol (Bristol University); United Cardiff (Wales University); United Birmingham (Birmingham University); United Manchester (Manchester University); United Liverpool (Liverpool University).

(S. I. 1948, No. 888)

The National Health Service (Apportionment and Transfer) Regulations, 1948

Made - - -	*27th April*, 1948
Laid before Parliament	*28th April*, 1948
Coming into Operation	*1st May*, 1948

The Minister of Health, in exercise of the powers conferred upon him by sections 6 (5), 7 (9) and 9 (8) of the National Health Service

Act, 1946,[1] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

Part I

General

1. These regulations may be cited as the National Health Service (Apportionment and Transfer) Regulations, 1948, and shall come into operation on the first day of May, 1948.

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

"the Act" means the National Health Service Act, 1946 [1] ;
"the appointed day" means the fifth day of July, 1948 ;
"the apportionment date" means the date of the agreement or of the award of the arbitrator under Part IV of these regulations ;

and other expressions used in these regulations have the same meaning as in the Act.

(2) The Interpretation Act, 1889,[2] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Part II

Provisions relating to the apportionment, transfer and vesting of property and liabilities under section 6 of the Act

3. Any interests in premises, other than workhouse premises, used partly for the purposes of any hospital to which section 6 of the Act applies and partly for other purposes shall be apportioned between the Minister and the other person or persons concerned according to the extent to which such premises are used for each of such purposes.

4. On the apportionment date or the appointed day, whichever shall be the later, the appropriate interests determined by the apportionment shall, without the necessity of any deed, transfer, assignment or other instrument (other than the agreement or the award of the arbitrator under these regulations), vest in the Minister and the other person or persons concerned.

5.—(1) On the apportionment under this part of these regulations of a leasehold interest, if the lease does not reserve separate rents for the several parts of the premises, the rent shall be apportioned

[1] 9 & 10 Geo. 6, c. 81. [2] 52 & 53 Vict., c. 63.

between the apportioned parts of the premises according to their value and the covenants on the lessee's part and the conditions contained in the lease shall be severed.

(2) After the apportionment date or the appointed day, whichever shall be the later, the non-payment of rent or the breach of a covenant or condition by the person or persons (other than the Minister) to whom a part of the premises has been apportioned shall not give rise to any claim against the Minister or to any right or remedy against or in respect of the part of the premises apportioned to the Minister and the non-payment of rent or the breach of any covenant or condition by the Minister or his successors in title shall not give rise to any claim against, or to any right or remedy against or in respect of the part of the property apportioned to, such other person or persons.

(3) Save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any such lease or otherwise are conferred on the lessor in respect of the rent reserved by or the premises comprised in the lease, and the same rights, powers and remedies shall continue in full force and shall extend and apply to the apportioned parts of the rent and of the premises as fully as they applied before the apportionment to the whole of the rent and of the premises respectively.

6. Any periodical sum (other than rent in respect of an apportioned leasehold interest) payable in respect of any property or liability which is apportioned between the Minister and the other person or persons concerned under this part of these regulations shall be apportioned between the Minister and such other person or persons in the same proportions as the property or liability in respect of which it is payable.

7.—(1) Any liability (other than a liability mentioned in sub-section (6) of section 6 of the Act) incurred partly for the purposes referred to in sub-section (1) or sub-section (2) of that section and partly for other purposes shall be apportioned between the Minister and the other person or persons concerned according to the extent to which it was incurred for each of such purposes.

(2) Where any liability which is apportioned under the preceding paragraph of this regulation is charged on any property nothing contained in that paragraph shall affect the person entitled to the benefit of such liability and accordingly any apportionment made under that paragraph, or under regulation 6 in respect of a periodical sum payable in respect of a liability apportioned under that paragraph, shall have effect only as between the Minister and the other

person or persons concerned and so far as concerns the person entitled to the benefit of the liability (but without prejudice to the rights of the Minister and the other person or persons concerned as between themselves by reason of the apportionment under the preceding paragraph of this regulation or under regulation 6) the liability so charged as aforesaid and any periodical sums payable in respect of such liability shall be apportioned between the Minister and the other person or persons concerned in the same proportions as the property on which it is charged is apportioned under this part or under Part III of these regulations or, if such property is not apportioned under these regulations, shall remain charged thereon in the same manner as if the Act had not been passed.

(3) Where a liability which is charged on property is apportioned under the last preceding paragraph of this regulation then as from the apportionment date or the appointed day, whichever shall be the later—

(*a*) such part only of that liability as is apportioned to the Minister shall be charged on the share of the property apportioned to the Minister, and such part only of the liability as is apportioned to the other person or persons concerned shall be charged on the share of the property apportioned to such person or persons ;

(*b*) the covenants and conditions contained in the deed or other document creating the liability or charging it on such property as aforesaid shall be severed so that no breach of any covenant or condition on the part of any other person or persons than the Minister shall give rise to any claim against the Minister or to the exercise of any right, power or remedy in respect of the liability or property apportioned to the Minister, and no breach of any covenant or condition on the part of the Minister shall give rise to any claim against such other person or persons or to the exercise of any right, power or remedy in respect of the liability or property apportioned to such person or persons ;

(*c*) save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any deed or document or otherwise are conferred on any person in respect of any liability apportioned under these regulations, and the same rights, powers and remedies shall continue in full force and apply to the apportioned parts of the liability and the apportioned parts of the property as fully as they applied before

the apportionment to the whole of the liability and the whole of the property respectively.

8. Any apportionment made under this part of these regulations shall take effect on the apportionment date or the appointed day, whichever shall be the later, and shall save as is otherwise expressly provided be binding upon the person or persons entitled to the benefit of any liability which is apportioned.

9.—(1) There shall, on the appointed day, be transferred to and vested in the Minister without the necessity of any deed, transfer, assignment or other instrument, any interests held solely for the purposes of two or more voluntary hospitals to which section 6 of the Act applies in premises used for the purposes of those hospitals, and any property and liabilities which would, if the interests were held and the premises used solely for the purposes of one such hospital, be transferred to the Minister under sub-section (1) of that section.

(2) Any interest in premises, and any rent, periodical sum or liability which is used or held or has been incurred partly for the purposes of two or more voluntary hospitals to which section 6 of the Act applies and partly for other purposes and which would be directed to be apportioned under this part of these regulations if it were used or held or had been incurred partly for the purpose of one such voluntary hospital and partly for other purposes shall be apportioned between the Minister and the other person or persons concerned in the same manner and with the like consequences as if it had been used, held or incurred partly for the purposes of one such voluntary hospital and partly for other purposes.

10. Any property transferred to the Minister under this part of these regulations shall vest in him free of any trust existing immediately before the appointed day and the Minister may use any such property for the purpose of any of his functions under the Act but shall so far as practicable secure that the objects for which any such property was used immediately before the appointed day are not prejudiced by the provisions of this regulation.

11.—(1) Where any interests in premises fall to be apportioned under this part of these regulations and have not been apportioned before the appointed day, then as from that day (but without prejudice to any subsequent apportionment)—

(*a*) such parts of the premises as were immediately before the appointed day used mainly for hospital purposes shall, pending apportionment, be controlled and managed by the appropriate hospital authority as if those parts of the premises formed part of or were used for the purposes of a

hospital transferred on the appointed day to the Minister by virtue of the Act, and the appropriate hospital authority may exercise in respect of those parts of the premises all such functions as would be exerciseable by them if those parts of the premises formed part of or were used for the purposes of a hospital transferred as aforesaid.

(*b*) such parts of the premises as were immediately before the appointed day used mainly for purposes other than hospital purposes shall, pending apportionment, be controlled and managed by the persons who, if the premises were used solely for purposes other than hospital purposes, would be entitled to the control and management thereof :

Provided that :

(i) in any case falling within sub-paragraph (*a*) of this paragraph the appropriate hospital authority shall, so far as practicable and to the satisfaction of the Minister, afford to the other person or persons concerned the like accommodation and facilities as were immediately before the appointed day available for purposes other than hospital purposes.

(ii) in any case falling within sub-paragraph (*b*) of this paragraph the other person or persons concerned shall, so far as practicable and to the satisfaction of the Minister, afford to the appropriate hospital authority such accommodation and facilities as were immediately before the appointed day available for hospital purposes.

(2) The question whether any part of any premises falls within sub-paragraph (*a*) or sub-paragraph (*b*) of the preceding paragraph of this regulation shall, in default of agreement between the appropriate hospital authority and the other person or persons concerned, be determined by the Minister.

(3) (*a*) Where it is agreed between the Minister and the other person or persons concerned that any premises were immediately before the appointed day used partly for the purposes of any hospital to which section 6 of the Act applies and partly for other purposes this regulation shall apply notwithstanding (but without prejudice to) any dispute which relates only to the extent of the interests to be vested, on apportionment, in the Minister and such other person or persons.

(*b*) This regulation shall not apply in respect of any premises if it is disputed that the interests in those premises fall to be apportioned under these regulations.

(4) The appropriate hospital authority who, by virtue of this regulation have the control and management of any parts of any premises shall, in respect of the period from the appointed day to the apportionment date, be responsible for the maintenance of those parts of those premises and for the payment of such proportion of any rent and other outgoings due in respect of the whole of the premises as may be agreed between the appropriate hospital authority and the other person or persons concerned or as may, in default of agreement, be determined by arbitration.

(5) For the purpose of this regulation, " appropriate hospital authority " means, in relation to a teaching hospital, the Board of Governors of that hospital, and in relation to a hospital other than a teaching hospital, the Regional Hospital Board for the area acting (to the extent specified in the National Health Service (Functions of Regional Hospital Boards, etc.) Regulations, 1948 [1]) through the agency of the Hospital Management Committee for the hospital or for the group of hospitals of which the hospital forms part.

Part III

Provisions relating to the apportionment transfer and vesting of property and liabilities under section 7 of the Act

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

" hospital authority " used in relation to any property or to any right or liability relating to property means the Minister or the Board of Governors of a teaching hospital or the Hospital Management Committee to whom the property would have been transferred if it had been an endowment within the meaning of the Act.

13. Any property held by the governing body of a voluntary hospital to which section 7 of the Act applies partly for the purposes of that hospital and partly for other purposes, being property which would, if it were held solely for the purposes of the hospital, constitute an endowment of that hospital shall, unless a direction requiring the disposal of such property is given by the Minister under regulation 21, be apportioned between the hospital authority and the other person or persons concerned according to the extent to which such property is held for each of such purposes.

14. On the apportionment date or the appointed day, whichever shall be the later, the appropriate shares determined by the apportionment shall, without the necessity of any deed, transfer, assignment or other instrument (other than the agreement or the award of the

[1] S. I. 1948, No. 60.

arbitrator under these regulations), vest in the hospital authority and the other person or persons concerned.

15. On an apportionment under this part of these regulations of the reversion expectant on the term granted by a lease the rent shall be apportioned in the same proportions as the reversionary estate in the land and from the apportionment date or the appointed day, whichever shall be the later, an apportioned part of the rent and the benefit of every covenant condition and provision relating to the subject matter of the lease (but in the case of the covenant for the payment of rent only to the extent of the apportioned rent) shall be annexed and incident to and go with the reversionary estate in each apportioned part of the land expectant on the term granted by the lease.

16. On the apportionment under this part of these regulations of any moneys secured by covenant the covenant shall after the apportionment date or the appointed day, whichever shall be the later, have effect as separate covenants relating to the shares into which the money is apportioned.

17.—(1) On the apportionment under this part of these regulations of a leasehold interest in property, if the lease does not reserve separate rents for the several parts of the property, the rent shall be apportioned between the apportioned parts of the property according to their value and the covenants on the lessee's part and the conditions contained in the lease shall be severed.

(2) After the apportionment date or the appointed day, whichever shall be the later, the non-payment of rent or the breach of a covenant or condition by the person or persons (other than the hospital authority) to whom a part of the property has been apportioned shall not give rise to any claim against the hospital authority or to any right or remedy against or in respect of the part of the property apportioned to the hospital authority, and the non-payment of rent or the breach of any covenant or condition by the hospital authority or their successors in title shall not give rise to any claim against, or to any right or remedy against or in respect of the part of the property apportioned to, such other person or persons.

(3) Save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any such lease or otherwise are conferred on the lessor in respect of the rent reserved by or the property comprised in the lease, and the same rights, powers and remedies shall continue in full force and shall extend and apply to the apportioned parts of the rent and of the property as fully as they applied before

the apportionment to the whole of the rent and of the property respectively.

18. Any periodical sum (other than rent in respect of an apportioned leasehold interest) payable in respect of any property which is apportioned between the hospital authority and the other person or persons concerned under this part of these regulations shall be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property in respect of which it is payable.

19.—(1) Any right or liability acquired or incurred for the purposes of managing any property which is apportioned between the hospital authority and the other person or persons concerned under this part of these regulations, shall, unless such liability is charged on such property, be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property for the management of which such right or liability was acquired or incurred.

(2) Any liability charged on any property which is apportioned between the hospital authority and the other person or persons concerned under this part of these regulations shall be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property on which it is charged.

(3) Where any liability which is charged on property is apportioned under the last preceding paragraph of this regulation then as from the apportionment date or the appointed day, whichever shall be the later—

(*a*) such part only of that liability as is apportioned to the hospital authority shall be charged on the share of the property apportioned to the hospital authority, and such part only of the liability as is apportioned to the other person or persons concerned shall be charged on the share of the property apportioned to such person or persons ;

(*b*) the covenants and conditions contained in the deed or other document creating the liability or charging it on such property as aforesaid shall be severed so that no breach of any covenant or condition on the part of any other person or persons than the hospital authority shall give rise to any claim against the hospital authority or to the exercise of any right, power or remedy in respect of the liability or property apportioned to the hospital authority, and no breach of any covenant or condition on the part of the hospital authority shall give rise to any claim against

such other person or persons or to the exercise of any right, power or remedy in respect of the liability or property apportioned to such other person or persons;

(*c*) save as aforesaid, nothing contained in these regulations shall prejudice or affect any of the rights, powers or remedies which under or by virtue of any deed or document or otherwise are conferred on any person in respect of any liability apportioned under these regulations, and the same rights, powers and remedies shall continue in full force and apply to the apportioned parts of the liability and the apportioned parts of the property as fully as they applied before the apportionment to the whole of the liability and the whole of the property respectively.

20. Any apportionment made under this part of these regulations shall take effect on the apportionment date or the appointed day, whichever shall be the later, and shall be binding upon the person or persons entitled to the benefit of any liability which is apportioned.

21.—(1) In lieu of the apportionment of property to which this part of these regulations refers, the Minister may, by a direction given under this regulation, require the persons who, prior to the appointed day, were the governing body of a voluntary hospital to dispose of such property.

(2) Any such direction may require the persons to whom it is given—

(*a*) to sell the property, whether in consideration of a capital sum or of a rent charge or other similar periodical payment; or

(*b*) to exchange the property, either with or without receiving any money for equality of exchange;

and may contain such provisions incidental to or consequential on the requirement to dispose of the property as appear to the Minister to be necessary or expedient.

(3) The persons required to dispose of property by a direction given by the Minister under this regulation shall have power to dispose of such property as directed by the Minister notwithstanding that the property is held for charitable purposes, or is subject to a restraint on alienation, and without the necessity of obtaining any order, consent or approval which apart from these regulations would be necessary for the purposes of the transaction.

(4) When any property is disposed of pursuant to a direction given by the Minister under this regulation the proceeds (including any property taken in exchange), after deduction of any costs and expenses properly incurred in connection with the transaction,

shall be apportioned between the hospital authority and the other person or persons concerned in the same proportions as the property would have been apportioned but for the direction under this regulation.

22.—(1) Any property (including the benefit of any rent or other periodical sum) apportioned—

(*a*) to the Minister, shall vest in him free of any trust existing immediately before the appointed day and shall be transferred by him to the Hospital Endowments Fund ;

(*b*) to the Board of Governors of a teaching hospital, shall vest in the Board free of any trust existing immediately before the appointed day, and shall be held by the Board on trust for such purposes relating to hospital services or to the functions of the Board under Part II of the Act with respect to research as the Board think fit, and the Board may dispose of the whole or any part of such property and hold the proceeds thereof on trust for any of the said purposes ;

(*c*) to a Hospital Management Committee, shall vest in that Committee free of any trust existing immediately before the appointed day, and shall be held by the Committee on trust for such purposes relating to hospital services or to the functions of the Committee under Part II of the Act with respect to research as the Committee think fit, and the Committee may dispose of the whole or any part of such property and hold the proceeds thereof on trust for any of the said purposes.

(2) Every Board of Governors and Hospital Management Committee shall, in the case of any property apportioned to them under these regulations, and the Minister shall, in the case of any property apportioned to him and transferred to the Hospital Endowments Fund under these regulations, secure, so far as is reasonably practicable, that the objects for which the property was held immediately before the appointed day and the observance of any conditions attaching to the property, including in particular conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the provisions of this regulation.

Part IV

Methods of apportionment

23. Any apportionment directed to be made under Part II or Part III of these regulations shall be made—

(*a*) by agreement in writing between the Minister, the Board of Governors of the teaching hospital, or the Hospital Management Committee and the other person or persons concerned ; or

(*b*) failing such agreement, by arbitration.

24.—(1) The Minister, the Board of Governors of a teaching hospital, a Hospital Management Committee and any other person or persons concerned shall have power to enter into agreements for the purposes of regulation 23, and, notwithstanding that the property to which such agreement relates is held for charitable purposes, or is subject to a restraint on alienation, any such agreement shall be valid without the necessity of obtaining any order, consent or approval which apart from these regulations would be necessary for the purposes of the transaction.

(2) Any such agreement may provide for the transfer or retention of any interest in premises or other property or of any rent liability or periodical or other sum or any part thereof with or without any conditions reservations exceptions or restrictions and for the joint use of any premises or other property and for the payment to or by any party of a capital or periodical sum and may include such other provisions as may be necessary or expedient for effecting the apportionment.

25. The arbitrator shall have power to determine any question arising as to any matters referred to in these regulations and to provide in his award for any matter for which an agreement might have provided and which the arbitrator considers fair and reasonable and necessary to give effect to the apportionment directed to be made by these regulations.

Part V

Supplementary and consequential provisions

26. The Minister may, in respect of any hospital which appears to him to be, or to be likely to be, within the provisions of Part II of the Act relating to the transfer of property and liabilities, require the governing body or trustees of that hospital, or the local authority in whom that hospital is vested, to deliver to him, or to such person or persons as he may specify, within such reasonable time as he may require, a statement setting out full particulars of all interests in or attaching to premises and of all property, endowments, rights and liabilities held used or incurred, whether solely or partly, for the purposes of that hospital, and may require such further information to be supplied (including plans, title deeds, securities, contracts

and other documents) as may appear to him to be necessary in connexion with the said provisions relating to the transfer of property and liabilities.

27. In the construction and for the purposes of any Act of Parliament, judgment, decree, order, award, deed, contract or other document passed or made in relation to, but before the date of the vesting of, any property or liabilities transferred under Part II of the Act or under these regulations, the name of the Minister or the other person or persons to whom the property or liabilities is or are transferred, shall be deemed to be substituted, in respect of the transferred property or liabilities so transferred, for the name of the person or persons entitled or subject thereto immediately before such transfer.

28.—(1) Where any property vested in or transferred to the Minister or any other person or persons by virtue of the Act or under these regulations consists of any stock standing, immediately before the appointed day, in the books of a company in the name of a governing body of a voluntary hospital, or of trustees, or of a local authority, it shall be obligatory upon the company, on production to it of a certificate signed by the Minister, or by a person authorised to act on his behalf, to transfer the stock into the name of, and to pay the dividends in respect thereof to, the Minister, the Board of Governors, the Hospital Management Committee, or the other person or persons named in the certificate.

(2) In this regulation the expression :—

" company " includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed ;

" stock " includes any share annuity or other security.

29. Any proceedings affecting any property or liabilities transferred under the aforesaid provisions of Part II of the Act or under these regulations, and pending at the date of such transfer, shall not be prejudicially affected by reason of the Act or these regulations or of anything done thereunder, but any such proceedings may be amended in such manner as may appear necessary or proper for enabling them to be prosecuted and enforced by or against the Minister, the Board of Governors of a teaching hospital, the Hospital Management Committee or any other person or persons concerned as the case may be.

30. Any question as to whether any property or liability will be or has been transferred under the provisions of Part II of the Act relating to the transfer of property and liabilities, or as to whether any property or liability falls to be apportioned under these regula-

tions or as to the person to whom it will be or has been transferred shall, in default of agreement, be determined by arbitration.

31.—(1) If after the appointed day an arbitration under the last preceding regulation is pending in relation to any property or liabilities then, while such arbitration is pending, such property shall be maintained and such liabilities as they fall due shall be discharged by the person or persons who maintained the property or discharged the liabilities immediately before the appointed day, but nothing in this provision shall prejudice the right of such person to recover the moneys so expended after the appointed day from the Minister, the Board of Governors of a teaching hospital, or the Hospital Management Committee or the other person or persons in or to whom the property or liabilities are by the award of the arbitrator held to have been vested or transferred on the appointed day.

(2) Except as provided in regulation 11, where any property or liabilities fall to be apportioned under these regulations then, pending apportionment, such property shall be maintained and such liabilities as they fall due shall be discharged by the person or persons who maintained the property or discharged the liabilities immediately before the appointed day.

32.—(1) For the purposes of the determination of any question which under these regulations is to be determined by arbitration, a panel of persons to act as arbitrators shall be appointed by the Lord Chancellor, and the Lord Chancellor shall nominate two members of the panel as chairman thereof and as deputy chairman respectively.

(2) Any such question as aforesaid shall be determined by the arbitration of such member of the panel as the chairman, or, in the event of the chairman's being temporarily absent or unable to act, the deputy chairman, may select.

33. Where, after the date on which any property or liability has, by virtue of the Act or under these regulations, been vested in or transferred to the Minister, the Board of Governors of a teaching hospital, a Hospital Management Committee or any such governing body as is referred to in section 8 of the Act, any person retains possession of any document relating to the title to, or to the control or management of, any such property, or relating to any such liability, he shall be deemed to have given to the Minister, the Board of Governors of the teaching hospital, the Hospital Management Committee or governing body concerned, as the case may be, an acknowledgment in writing of the right to production of that document and to delivery of copies thereof, and section 64 of the

Law of Property Act, 1925 [1] (which relates to the production and safe custody of documents) shall apply as if the acknowledgment had been given without any such expression of contrary intention as is referred to in sub-section (13) of that section.

EXPLANATORY NOTE

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

The regulations provide for the apportionment and vesting of interests in premises used partly for hospital purposes and partly for other purposes, and of property which, if held solely for the purposes of a single voluntary hospital, would constitute an " endowment " of that hospital; for the apportionment of rents and other periodical payments payable in respect of transferred property; and for the apportionment of liabilities incurred partly for hospital purposes and partly for other purposes. Provision is also made for the control and management of apportionable premises pending apportionment.

The regulations also provide for the transfer to the Minister of Health of interests in premises and of liabilities held or incurred for the purposes of two or more voluntary hospitals.

Part V of the regulations contains provisions supplementary to or consequential on the transfer and apportionment of property and liabilities, including a provision for arbitration in respect of disputed transfers.

(S. I. 1948, No. 419)

The National Health Service (Superintendents of Mental Hospitals, etc.) Regulations, 1948

Made - - -	26*th February*, 1948
Laid before Parliament	2*nd March*, 1948
Coming into Operation	1*st May*, 1948

The Minister of Health in exercise of his powers under sections 12, 14 and 66 of the National Health Service Act, 1946,[2] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the National Health

[1] 15 & 16 Geo. 5, c. 20. [2] 9 & 10 Geo. 6, c. 81.

Service (Superintendents of Mental Hospitals, etc.) Regulations, 1948, and shall come into operation on the 1st day of May, 1948.

(2) The Interpretation Act, 1889,[1] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

2. A Superintendent shall be appointed for each mental hospital or institution for defectives administered by a Regional Hospital Board, and it shall be a term of his appointment that he shall reside at the hospital or institution or within such distance therefrom as the board may approve.

3. Unless the Minister shall otherwise direct the Superintendent shall be a medical practitioner.

4. The Superintendent shall be the Chief Officer of the hospital or institution, and he shall be responsible for the general management thereof in accordance with any directions which may be given by the Regional Hospital Board or the Hospital Management Committee.

5.—(1) The Superintendent may, for any reason which appears to him sufficient, suspend from duty any officer employed for the purposes only of the hospital or institution and shall forthwith report such suspension, together with the cause thereof, to the Hospital Management Committee.

(2) During the period of suspension the whole or any part of the officer's salary may be withheld. If the suspension is removed the amount so withheld shall be paid to the officer. If the officer dies or resigns or is removed from office during the period of suspension the amount so withheld shall not be paid unless the board or committee otherwise determine.

6. These regulations shall apply in the case of an institution vested in the Minister of Health and designated by him for the purposes of the Mental Treatment Act, 1930,[2] as if the said institution were a mental hospital.

For S. I. 1948, No. 979, see p. 462 ; for No. 1075 see p. 491, and for No. 1156 see p. 496.

The following statutory instruments which were received too late for inclusion in the body of this work are the subject of a Supplementary Index at the end of the book :—**1948/1237, 1948/1239, 1948/1273, 1948/1292, 1948/1297, 1948/1301, 1948/1413, 1948/1414, 1948/1415, 1948/1416, 1948/1448.** It is hoped to include them in a supplement to be published later.

[1] 52 & 53 Vict., c. 63.

[2] 20 & 21 Geo. 5, c. 23.

(S. I. 1948, No. 1474)

National Health Service (Superannuation) (Amendment) Regulations, 1948

Made . . . . 30*th June*, 1948
Coming into Operation . 1*st July*, 1948

The Minister of Health, in exercise of the powers conferred on him by Sub-Section (1) of Section 67, of the National Health Service Act, 1946, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (Amendment) Regulations, 1948, and shall come into force on the first day of July, 1948.

(2) These regulations and the National Health Service (Superannuation) Regulations, 1947, shall be construed as one, and may be cited together as the National Health Service (Superannuation) Regulations, 1947 and 1948.

(3) The Interpretation Act, 1889,[1] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(4) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them :—

"the principal regulations" means the National Health Service (Superannuation) Regulations, 1947 ; and

"regulation" means regulation contained in the principal regulations.

2. A person who by virtue of any employment would be an officer within the meaning of the principal regulations shall not be treated as such if he is a Chaplain to whom Clergy Pensions Measure, 1948, applies.

3. In Regulation 1, in paragraph (3) thereof—

(*a*) in the definition of "mental health officer," there shall be added the words "and any officer employed as the Regional Psychiatrist by a Regional Hospital Board who immediately before entering their employment as such, whether before or after the date of these regulations, was such an officer as aforesaid or was an officer to whom the Superannuation (Prison Officers) Act, 1919, applied and had been such an officer for a period of not less than ten years" ; and

[1] 52 & 53 Vict., c. 63.

(*b*) in the definition of " national service," there shall be added the words " but does not include, in a case where a person continues his national service otherwise than in pursuance of a legal obligation so to do arising otherwise than by reason of a voluntary undertaking by him to continue it, and the employing authority by whom he was employed immediately before he undertook his national service has notified him in writing that his national service for the purpose of these regulations will be deemed to cease on the expiration of a period of three months after the date of the service of the notification, any part of his national service after the expiration of the said period."

4. In regulation 2, in proviso (ii) (*i*) to paragraph (1) thereof, there shall be substituted for the words " local authority or governing body of a voluntary hospital " the words " authority or body from which functions are transferred by the Act, or under an officer of such an authority or body, or at or for the purposes of any hospital ".

5. In regulation 4—

(*a*) in paragraph (3) thereof, the words " otherwise than by reason of illness or injury " shall be omitted and the following proviso shall be added :—

" Provided that where the absence from duty is by reason of illness or injury the provisions of this paragraph shall not apply, unless the officer's remuneration is reduced solely by reason of his having become entitled to benefit under the National Insurance Acts, 1946 ; and

(*b*) in paragraph (7) thereof, for the words " an officer," there shall be substituted the words " a person," after the word " reckon " there shall be inserted the words " any of ", the words " if his service pay equals or exceeds the remuneration of his former employment " shall be omitted, and there shall be substituted for the words " as if " the words " (if any) as he would have been liable to make if ".

6. In regulation 6, in proviso (*c*) to paragraph (2) thereof, and in regulation 10, in proviso (iv) thereto, there shall be substituted for the words " being reckoned at double its actual length " the words " being reckoned as contributing service."

7. In regulation 6, in proviso (i) to paragraph (3) thereof, and in the substituted regulation 6 as set out in regulation 38 (3) (*e*), in proviso (ii) to paragraph (1) thereof, there shall be substituted for all words after the words " forty years " the words " the pension

shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service."

8. In regulation 6, in proviso (iii) to paragraph (4) thereof, and in the substituted regulation 6 as set out in regulation 38 (3) (*e*), in proviso (iv) to paragraph (2) thereof, there shall be substituted for all words after the words " forty years " the words " the amount of the allowance shall be calculated by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service."

9. In regulation 8, the words " more than " and the words " unless he is entitled to a retiring allowance " shall be omitted, and the following proviso shall be added :—

" Provided that if the officer is also entitled to a retiring allowance, the short service gratuity shall be reduced by the amount of the said allowance."

10. In regulation 10, in proviso (iii) thereto, and in regulation 38, in proviso (ii) to sub-paragraph (*f*) of paragraph (3) thereof, there shall be substituted for all words after the words " forty years " the words " the sum shall be obtained by reference to the last forty years actual service, any non-contributing service within that period being reckoned as contributing service."

11. In regulation 13—

(*a*) in proviso (*a*) to paragraph (2) thereof, there shall be inserted after the word " officer " the words " (not being an officer transferred under the Act) " ;

(*b*) in proviso (*d*) to paragraph (2) thereof, there shall be inserted after the words " established civil servant " where they first occur, the words " the foregoing provision shall apply as if for the reference to employment or war service or national service which would have been recoknable for the purpose of determining whether a person was entitled to receive a superannuation benefit, there were substituted a reference to employment or war service or national service which would have been reckonable for the purpose of determining whether the officer had served for the minimum period prescribed by the Superannuation Acts as necessary for the grant of any retiring award to him and " ;

(*c*) the following new paragraph shall be inserted :—

" (6A) Where a person in the employment of an employing authority, not being an officer, ceases to be employed in order to undertake national service, then, if on the termination of that service or within six months thereafter he returns

to the employment of any employing authority, the period of his national service shall be taken into account for the purposes of these regulations in the same manner and to the same extent as it would have fallen to be taken into account if he had continued to follow his former employment throughout the period of his national service " ; and

(*d*) in paragraph (8) thereof, there shall be inserted after the words " transferred by the Act " the words " or by the National Health Service (Scotland) Act, 1947," and after the words " by the Minister under the Act " wherever they occur, the words " or by the Secretary of State under the said Act of 1947."

12. In regulation 14, the following new paragraph shall be inserted :—

" (2A) Any part of any national service which is reckonable as a period of service under regulation 13 (6A) in relation to any officer, being a part in respect of which contributions have been made pursuant to regulation 4 (7), shall be reckonable as a period of contributing service."

13. In regulation 15—

(*a*) the following new paragraphs shall be added

" (6) Where a person becomes or has become an officer of an employing authority within twelve months after ceasing to be a contributory employee or local Act contributor in the employment of any local authority, the local authority may, within three months after the date on which the person becomes such an officer or if he has become such an officer before the date of the coming into operation of these regulations within three months after that date, exercise in relation to him any power which would have been exercisable in relation to him under paragraph (1) or (2) of this regulation had he been transferred under the Act.

(7) A person in relation to whom a resolution to add years has been passed or a discretion has been exercised pursuant to paragraph (6) of this regulation shall be entitled to reckon as contributing service in relation to his employment as such officer as aforesaid any number of years in respect of which the resolution was passed or the discretion was exercised."

14. In regulation 18—

(*a*) in proviso (*b*) to paragraph (1) thereof, there shall be inserted after the words " those contributions " the words " would not have been returnable or " ; and

(*b*) in paragraph (2) thereof, there shall be omitted—

(i) sub-paragraph (*b*) ;

(ii) the words " in the case mentioned in sub-paragraph (*a*) of this paragraph " ; and

(iii) all words (including the proviso) after the words " compound interest thereon " in line 11.

15. The following new regulation shall be inserted after regulation 18 :—

" *Officers ceasing to be employed in consequence of the Act.*

18A.—(1) Where an officer ceases to be employed by an employing authority in consequence of the Act without having become entitled to any benefit under these regulations other than a return of his contributions, and no transfer value is payable in respect of him, then, if compensation would be payable to him under regulations made by the Minister under section 68 of the Act but for the fact that he had not been employed in manner thereby prescribed for a period thereby prescribed, he shall be entitled to receive from the Minister a sum equal to the accrued value of his prospective rights under these regulations, less the amount of any contributions and interest to which he has become entitled pursuant to these regulations.

(2) For the purposes of the last preceding paragraph, the accrued value of an officer's prospective rights under these regulations shall be treated as being an amount equal to the amount of the transfer value which would have been payable in respect of him under regulation 49 had that regulation become applicable or, if he was a person to whom regulation 24 applied, such a sum as the Minister may consider reasonable :

Provided that no account shall be taken of any rights secured by a policy of insurance.

(3) For the purposes of these regulations, any sum received by a person under this regulation shall be treated as if it were a sum paid to him by way of a return of contributions.

(4) Where a person who has received a sum under this regulation gives notice to an employing authority under paragraph (9) of regulation 13 that he intends to make payments in accordance with that paragraph, he shall not be entitled to make such payments unless forthwith on giving such notice he pays to the employing authority an amount equal to the said sum, together with compound interest thereon, at the rate of two and one half per cent. per annum, calculated, with half yearly rests, as from the date on which the said sum was received."

16. In regulation 20, the following new paragraph shall be added—

"(5) The proceedings on any reference to a referee or board of referees under the last preceding paragraph shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889–1934, applies."

17. In regulation 22, in paragraph (2) thereof, the words "or who attains pensionable age on, or within three months after, being so transferred" shall be omitted.

18. In regulation 24—

(*a*) in paragraph (2) thereof, there shall be added at the end of the paragraph the words "and in regulation 18A"; and

(*b*) in paragraph (3) thereof, there shall be added at the end of the paragraph the words "regulation 18A and the next succeeding regulation".

19. In regulation 28, the words "other than mental health officers" shall be omitted.

20. In regulation 29—

(*a*) the words "attained the age of fifty-five years and" shall be omitted, and there shall be inserted after the word "applied" where it occurs for the second time the words "or, if the Minister so directs, as a person subject to a scheme approved by the Minister under regulation 13 (3) (*d*) (v)"; and

(*b*) the following new paragraphs shall be inserted—

"(2) These regulations, in their application to any mental health officer (not being an officer to whom the last preceding paragraph applies) who has been employed for an aggregate period of at least twenty years as such an officer and before he became such an officer as a person on the staff of a hospital used wholly or partly for the treatment of mental patients or an institution so used for the treatment of defectives devoting the whole or substantially the whole of his time to the treatment or care of such patients or defectives, shall have effect subject to the following modifications:—

(*a*) in regulations 5 and 20 (1), fifty-five years shall be substituted for sixty years; and

(*b*) for the purposes of regulation 6, 9 (2) and 10, the proviso to regulation 11 (1) and regulations 30 (3) and 30 (4), account shall be taken as if it were two years of every year of contributing service as a mental health officer rendered after attainment of the age of fifty years or after the date on which

this paragraph becomes applicable, whichever is the later.

(3) In reckoning the aggregate period of a mental health officer's employment for the purpose of this regulation account shall be taken as if it were a period of employment of any period of service which he is entitled to reckon by virtue of the exercise in relation to him of the power conferred by regulation 15 (3)."

21. In regulation 30—

(*a*) the following new provision shall be substituted for proviso (*a*) to paragraph (2) thereof—

" (*a*) in the case of a mental health officer who by virtue of regulation 29 becomes entitled to reckon any year of contributing service as such officer as if it were two years, the amount of the reductions shall be doubled ; " ; and

(*b*) in paragraph 3 (*b*) thereof, the words " on being transferred under the Act or " shall be omitted, there shall be inserted after the words " date of acquisition " the words " or was such a person as is mentioned in paragraph (9) of this regulation ", there shall be inserted after the words " his age " the words " at the appointed day or ", and there shall be inserted after the words " on which he became an officer " where those words first occur the words " whichever is the later ".

22. The following new regulations shall be inserted after regulation 33 :—

" *Application to officers formerly employed in hospitals vested in or requisitioned by the Crown.*

33A. For the purposes of these regulations a person who immediately before the appointed day was solely or mainly employed at or for the purposes of any hospital which would have been transferred to the Minister by virtue of the Act but for the fact that the hospital or any interest therein was vested in or requisitioned by the Crown shall, if he becomes on the appointed day an employee of any employing authority, be treated as if he had been transferred under the Act, and employment at or for the purposes of any such hospital shall be treated as if it were employment at or for the purposes of a hospital transferred to the Minister under the Act.

Application to Officers formerly employed in the Blood Transfusion Service.

33B. For the purposes of these regulations, a person who

enters the employment of an employing authority on the appointed day, having immediately before that day been in employment under the Crown in the Blood Transfusion Service, shall be deemed to have been transferred under the Act to the employment of the employing authority, and the said employment under the Crown shall be deemed to be employment under a body from which functions are transferred by the Act ".

23. In regulation 34, there shall be inserted after the word " person " where it first occurs the words " (other than a person engaged wholly or mainly on clerical duties) ", there shall be substituted for the word " officer " the word " employee " and there shall be substituted for the words " left employment as an established civil servant and entered the employment of the Board " the words " been transferred under the Act to the employment of an employing authority immediately before the data on which this regulation became operative, and as if his former employment had been employment under any authority or body from which functions are transferred by the Act ".

24. In regulation 38—

(*a*) In paragraph (1) thereof, there shall be inserted after the word " practitioner " the words " other than a person rendering specialist services pursuant to section 3 of the Act." ;

(*b*) in paragraphs (2) and (3) thereof, the words " subject to the provisions of paragraph (5) of this regulation " shall be omitted ;

(*c*) in proviso (ii) to paragraph (2) of the substituted regulation 6, as set out in sub-paragraph (*e*) of paragraph (3) of regulation 38, there shall be inserted after the words " a practition who is " the words " a widower or " ;

(*d*) sub-paragraph (*l*) of paragraph (3) thereof shall be omitted ;

(*e*) the following sub-paragraph shall be inserted in paragraph (3) thereof—

" (*jj*) the proviso to regulation 16 shall not apply in the case of a practitioner " ; and

(*f*) for paragraph (5) thereof, there shall be substituted the following paragraph :—

" (5) These regulations in their application to a person who is a practitioner by virtue of being a person rendering specialist services pursuant to section 3 of the Act shall have effect subject to the modifications contained in paragraph (3) of this regulation other than the modifications contained in sub-paragraphs (*h*), (*k*) and (*m*) thereof."

25. In regulation 39—

(*a*) in paragraph (1) (*c*) thereof, after the word " person " there shall be inserted the words " (other than such a person as is mentioned in either of the two preceding sub-paragraphs) " ; and

(*b*) the proviso to paragraph (1), and paragraph (2), shall be omitted.

26. In regulation 40—

(*a*) in paragraph (1) thereof, for the words " and any " there shall be substituted the words " or relevant ", the words " extend and " shall be omitted, and after the words " to whom this part applies " there shall be inserted the words " by virtue of his being such a person as is mentioned in sub-paragraph (*a*) or (*b*) of regulation 39 (1) " ;

(*b*) the following new paragraph shall be substituted for paragraph (2) :—

" (2) The Act of 1937 or relevant local Act scheme shall be further modified in relation to any such officer as aforesaid who is in the employment of a local health authority on the appointed day, and who immediately before that day was a contributory employee or local Act contributor, so as to confer on him rights corresponding to those conferred by regulations 22 and 23, and those regulations shall apply accordingly, with the modification that references to employing authorities in regulation 22 shall be read as references to local health authorities, and with any other necessary modifications " ; and

(*c*) the following new paragraph shall be inserted after paragraph (4) :—

" (5) The Act of 1937 or relevant local Act scheme shall, if not otherwise applicable, apply in relation to any officer to whom this part applies by virtue of his being such a person as is mentioned in sub-paragraph (*c*) of regulation 39 (1), and in its application to any such officer, whether as so applied or otherwise, shall be modified so as to confer upon him a right corresponding to that conferred by regulation 22, and that regulation shall apply accordingly, with the modification that references to employing authorities shall be read as references to local health authorities, and with any other necessary modifications ".

27. After regulation 40, there shall be inserted the following new regulation—

" 40A.—(1) Where a person, being a contributory employee

or local Act contributor in the employment of any local authority, will, if he remains in their employment, be transferred under the Act to the employment of a local health authority, the local authority may at any time before the date of transfer, or within three months thereafter if he is so transferred, exercise in relation to him the power conferred on them by regulation 15 in relation to any person to whom that regulation applies, and that regulation shall apply accordingly for the purpose, with any necessary modifications.

(2) Any number of years added to a person's service under the last preceding paragraph shall be deemed to be a number of years which was reckonable immediately before the date of transfer as contributing service for the purposes of the Act of 1937 or as service for the purposes of the local Act scheme.

(3) Where the amount of any transfer value is increased in consequence of the exercise by a local authority of any power conferred upon them by paragraph (1) of this regulation, the local authority shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable."

28. In regulation 42, there shall be substituted for the words, "an officer falling within the class mentioned in regulation 39 (1) (*a*)" the words "a contributory employee or local Act contributor on the medical or nursing staff of the authority."

29. In regulation 43, in paragraph (1) thereof, there shall be inserted after the words "school health service" the words "and he is not a person who has exercised such option as is mentioned in regulation 40 (2) or the proviso to regulation 42."

30. In regulation 47, the following new paragraphs shall be inserted—

"(8A) In the calculation of any transfer value under paragraph (1) or (5) of this regulation, or in the certification under paragraph (2) thereof of any liability of which any superannuation fund has been relieved, account shall be taken of any number of years that may have been added to a person's service under the provisions of regulation 15 as if that number of years had been reckonable as a number of years of contributing service or service, as the case may be, for the purposes of the Act of 1937, the local Act scheme or the Act of 1909 immediately before he ceased to be a contributory employee, local Act contributor or person subject to the Act of 1909.

(8B) Where before the coming into operation of these regulations any transfer value has been paid in respect of a person

who has become an officer of an employing authority, and the local authority under whom he was a contributory employee or local Act contributor exercise any power conferred on them by paragraph (6) of regulation 15, the transfer value shall be re-calculated to take account of any years added or any service converted into contributing service by virtue of the exercise of that power.

(8C) Where the amount of any transfer value payable out of a superannuation fund under paragraph (1) of this regulation or the amount of any liability to be certified under paragraph (2) thereof is increased in consequence of the exercise by a local authority of any power conferred upon them by regulation 15, the local authority, or if that authority has been dissolved, the local authorities who appointed that authority, shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable or in relation to which the liability is to be certified."

31. The following new regulation shall be substituted for regulation 53—

" 53. Any question arising under these regulations as to the rights or liabilities of an officer or retired officer of an employing authority, or of a person claiming to be treated as such or of the widow, any dependant or the legal personal representatives of an officer or retired officer shall be determined by the Minister."

32. In the Fourth Schedule to the principal regulations—

(*a*) in the 3rd column of Table V, there shall be substituted for the figures " £10 8s." the figures " £10 18s." ; and

(*b*) in sub-paragraph (3) of paragraph 6 thereof, there shall be inserted a reference to Table IA, in addition to the references to the Tables there mentioned, and the following new Table shall be inserted after Table I—

"TABLE IA

SERVICE OF A MALE MENTAL HEALTH OFFICER

Age	Amount appropriate in respect of each £100 of remuneration
	£ s. d.
Under 36	8 9 0
36 and under 37	8 10 0
37 ,, ,, 38	8 11 0
38 ,, ,, 39	8 12 0
39 ,, ,, 40	8 13 0
40 ,, ,, 41	8 14 0
41 ,, ,, 42	8 16 0
42 ,, ,, 43	8 17 0
43 ,, ,, 44	8 18 0
44 ,, ,, 45	9 0 0
45 ,, ,, 46	9 2 0
46 ,, ,, 47	9 3 0
47 ,, ,, 48	9 5 0
48 ,, ,, 49	9 7 0
49 ,, ,, 50	9 10 0
50 ,, ,, 51	9 13 0
51 ,, ,, 52	9 17 0
52 ,, ,, 53	10 2 0
53 ,, ,, 54	10 7 0
54 ,, ,, 55	10 12 0
55 ,, ,, 56	10 12 0
56 ,, ,, 57	10 7 0
57 ,, ,, 58	10 2 0
58 ,, ,, 59	9 17 0
59 ,, ,, 60	9 11 0
60 and over	£9 5s. 0d. less six shillings for each completed year by which the officer's age exceed sixty years.

33. In the Fifth Schedule to the principal regulations, in paragraph 1 thereof, there shall be inserted after the words "before that day," the words "(including any number of years service that may have been added under the provisions of regulation 15)."

34. The principal regulations, as amended by these regulations, shall apply in the Isles of Scilly as they apply in England and Wales.

EXPLANATORY NOTE

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

These regulations amend the National Health Service (Superannuation) Regulations, 1947. They correct certain anomalies in the principal regulations and make various drafting and minor amendments. In addition the regulations confer additional rights on persons subject to the provisions of the principal regulations and extend those regulations to additional classes of persons.

The benefits conferred upon mental health officers are extended to Regional Psychiatrists employed by Regional Hospital Boards (Regulation 3). Employees who undertake national service and who were not superannuable when they left their employment are now enabled to become superannuable during their national service, if they would have done so had they continued in their employment (regulation 11 (*c*)). By regulation 15 of the principal regulations local authorities are given power to add years of service or to convert non-contributing service into contributing service in the case of such of their superannuable employees as are transferred under the Act to the central health service. This power is now to be exerciseable by them in relation to their employees who transfer at any time (regulation 13). The power conferred by regulation 15 of the principal regulations is now extended to transfers of employees under the Act from minor local authorities to local health authorities (regulation 27). Consequential provisions in respect of transfer values, etc., are made in regulations 27 and 30. Where a person ceases to be employed in consequence of the National Health Service Act, and he had not completed a sufficient number of years service to entitle him to compensation under regulations made under section 68 of the Act, he is to be entitled under the principal regulations to receive the accrued value of his superannuation rights instead of merely a return of the contributions to which he might otherwise be entitled (regulation 15). Certain mental health officers are entitled under the principal regulations to reckon part of their service at twice its actual length. The class of employment which qualifies an officer for this right is extended (regulation 20). Transferred officers enjoy certain special rights under the principal regulations, for example an option to retain pre-transfer superannuation rights. These rights are extended to persons employed in hospitals already vested in the Crown and therefore not transferred to the Minister by virtue of the Act, and to persons employed under the Crown in the Blood Transfusion

Service (regulation 22). Persons in the employment of a local health authority on the appointed day are given an option to retain rights corresponding with those enjoyed immediately before the appointed day instead of becoming subject to Part III of the principal regulations (regulation 26).

(S.I. 1948, No. 979)

The National Health Service (Designation of Teaching Hospitals (No. 2)) Order, 1948

Made . . . . . . 7*th May*, 1948

Text of Order omitted

EXPLANATORY SUMMARY

(*This Summary is not part of the order, but is intended to indicate its general purport.*)

This order is made by the Minister of Health under section 11 (8) of the National Health Service Act, 1946, for the purpose of designating certain hospitals and groups of hospitals in the Metropolitan Area as teaching hospitals, viz., hospitals and groups of hospitals to be known as The Royal Hospital of St. Bartholomew, The London Hospital, The Royal Free Hospital, University College Hospital, The Middlesex Hospital, Charing Cross Hospital, St. George's Hospital, Westminster Hospital, St. Mary's Hospital, Guy's Hospital, King's College Hospital, St. Thomas's Hospital, The Hammersmith, West London and St. Mark's Hospitals, The Hospital for Sick Children, The National Hospitals for Nervous Diseases, The Royal National Throat, Nose and Ear Hospital. The Moorfields, Westminster and Central Eye Hospital. The Bethlem and Maudsley Hospitals. St. John's Hospital for Diseases of the Skin. The Hospitals for Diseases of the Chest. The Royal National Orthopædic Hospital, The National Heart Hospital, St. Peter's and St. Paul's Hospitals, The Royal Cancer Hospital, Queen Charlotte's and Chelsea Hospitals, The Eastman Dental Clinic. These hospitals are designated as appearing to the Minister to provide facilities for undergraduate and post-graduate teaching for the University of London.

(S. I. 1948, No. 1475)

National Health Service (Transfer of Officers and Compensation) Regulations, 1948

(*Made . . 30th June*, 1948, *Operative 5th July*, 1948)

The Minister of Health in exercise of the powers conferred on him by section 68 of the National Health Service Act, 1946, as amended by sub-paragraph (4) of paragraph 7 of the Sixth Schedule to the National Assistance Act, 1948, hereby makes the following regulations :—

Part I

Citation and Interpretation

1. These regulations may be cited as the National Health Service (Transfer of Officers and Compensation) Regulations, 1948, and shall come into operation on the fifth day of July, 1948.

2. In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

"accrued pension", in relation to a pensionable officer who has suffered loss of employment, means—

(*a*) if the pension scheme to which the officer was last subject before losing his employment consisted of arrangements for the provision of superannuation benefits in which he had no right to participate but had reasonable expectations of participating, such proportion of the pension of which he had reasonable expectations as the compensating authority considers equitable, having regard to his age, the length of his employment at the date of loss and all the other circumstances of the case ; and

(*b*) in any other case the pension to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service or contribution,

and includes the annual value as ascertained by an actuary of any contingent right under the scheme in respect of widow's

pension or any other benefit which might have become payable to his widow or to his legal personal representatives on his death had he not lost his employment, but does not include any part of such pension as aforesaid which is attributable to any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 19th day of March, 1946, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connexion with the discharge of the existing functions of the body employing him ;

" accrued incapacity pension " has the same meaning as " accrued pension " except that the reference to a person's having attained normal retiring age shall be construed as a reference to his having become incapable of discharging efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body ;

" accrued retiring allowance ", in relation to a pensionable officer who has suffered loss of employment, means any lump sum payment to which he would have become entitled in respect of his pensionable service according to the method of calculation, as modified by paragraph 18 of the schedule to these regulations, prescribed by the pension scheme to which he was last subject before losing his employment, if at the date on which he ceased to be subject thereto he had attained normal retiring age and complied with any requirement of the said scheme as to a minimum period of qualifying service ;

" the Act " means the National Health Service Act, 1946 ;

" actuary " means a Fellow of the Institute of Actuaries or of the Faculty of Actuaries in Scotland ;

" appointed day " means the fifth day of July, 1948 ;

" compensating authority " means—

(*a*) in relation to a person who was or is an officer of a county or county borough council, not being a person transferred from their employment by virtue of these regulations, or an officer of any other local authority who suffers loss of employment or diminution of emoluments by reason of the transfer of functions from that authority to a county or county borough council as local health authority in consequence of the Act, the county or county borough council ;

(*b*) subject as hereinafter provided, in relation to a person

who was or is an officer of a local authority, not being a person transferred from their employment by virtue of these regulations, who suffers loss of employment or diminution of emoluments by reason of the cesser of any functions of that authority in consequence of the Act, that authority ;

(*c*) in relation to a person who was or is an officer of any such body as is mentioned in paragraph (*a*) or (*b*) of subsection (1) of section 78 of the Act which is dissolved as from the appointed day by virtue of that section, not being a person transferred from the employment of that body by virtue of these regulations, the local authority by whom the said body was appointed or, in the case of a joint committee or joint board, such one of its constituent authorities as may be agreed between them or, in default of agreement, as may be determined by the Minister ; and

(*d*) in any other case, the Minister ;

" emoluments " means all salary, wages, fees and other payments paid or made to an officer as such for his own use, and includes the money value of any apartments, rations or other allowances in kind appertaining to his employment, but does not include payments for overtime or any allowances payable to him to cover the cost of providing office accommodation or clerical or other assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred by him, for the purposes of his employment, and also does not include any remuneration enjoyed, whether before or after the appointed day, in consequence of an increase between the 19th day of March, 1946, and the appointed day in the remuneration of any employment, if it can be shown that the increased remuneration was not granted in the ordinary course of that employment or in consideration of the person's assumption of increased responsibilities or new duties in connexion with the discharge of the existing functions of the body employing him ;

" existing officer " means a person who immediately before the appointed day—

(*a*) devoted the whole of his time to any of the following employments or to any combination of such employments, namely employment in Great Britain by the governing body of a voluntary hospital, a local authority, an insurance committee, the Ophthalmic Benefit

Approved Committee, the Dental Benefit Council, or by any other body for the purposes of the local government service or by the Crown ; and

(*b*) was employed for at least part of his time for the purposes of any hospital transferred to the Minister by virtue of the Act or for the purposes of functions which cease, or are transferred from the employing authority or body, in consequence of the Act ;

and who had devoted the whole of his time for a period of not less than eight years before the appointed day after attaining the age of eighteen years without a break of more than twelve months at any one time to employment by any such authority or body as aforesaid, or employment under an officer of any such authority or body for the purposes of the functions of such authority or body, or employment by any voluntary organisation which provided services similar to those which local authorities may be required to provide in the discharge of their functions under Part III of the Act or under the Mental Deficiency Acts, 1913–1938, or to any combination of the said employments or to war service undertaken on ceasing to follow any of the said employments or any combination thereof ;

" net emoluments ", in relation to an officer who suffers loss of employment or diminution of emoluments, means the annual rate of his emoluments immediately before such loss or diminution, after deducting therefrom the like percentage thereof as the percentage of his emoluments which he was then liable to contribute under any pension scheme associated with his employment :

Provided that—

(*a*) if, for the purposes of the foregoing definition, account is required to be taken of any fees payable to a person as part of his emoluments, the amount thereof shall be taken to be the annual average of the fees paid to him during the three years immediately preceding the loss of employment or diminution of emoluments, or, if the fees were payable in respect of a shorter period, such shorter period ; and

(*b*) any amount by which the annual rate of his emoluments exceeds £4,000 shall be disregarded ; and

(*c*) if the officer was not a pensionable officer, no deduction shall be made on account of pension contributions ;

" normal retiring age " means, in relation to an officer in

whose case an age of compulsory retirement applied by virtue of any pension scheme associated with the employment he has lost or the emoluments of which have been diminished or by virtue of the conditions of that employment, that age, and, in any other case, the age of sixty-five years if the officer is a male, or sixty years if the officer is a female ;

" office " means any place, situation or employment, and the expression " officer " shall be construed accordingly ;

" pensionable officer ", in relation to an officer who has suffered loss of employment, means an officer who immediately before the appointed day was subject to a pension scheme ;

" pension scheme " means a scheme or arrangements for the payment of superannuation benefits to a person as part of the terms and conditions of any employment held by him, and includes arrangements for the provision of superannuation benefits in which by virtue of any employment held by him a person had reasonable expectations of participating on the 19th day of March, 1946, and immediately before the appointed day ;

" service " in relation to a person means any period of whole-time or part-time employment in Great Britain, after attaining the age of eighteen years, under a Regional Hospital Board, a Board of Governors of a teaching hospital, an Executive Council, a joint committee of Executive Councils, or under any such authority or body as is mentioned in Section 67 (1) (*c*) (i) of the National Health Service (Scotland) Act, 1947, or under any authority or body functions of which cease or are transferred in consequence of the Act or the National Health Service (Scotland) Act, 1947, or under the Crown or any other body for the purposes of the local government service, or under an officer of any such authority or body for the purposes of the functions of that authority or body, or at or for the purposes of any hospital transferred to the Minister by virtue of the Act, or any hospital transferred to the Secretary of State by virtue of the National Health Service (Scotland) Act, 1947, or under the Ophthalmic Benefit Approved Committee or the Dental Benefit Council, and includes any period of war service undertaken on the person's ceasing to hold any such employment as aforesaid, but does not include employment of which account has been taken, or is required to be taken, in calculating the amount of any superannuation benefits to which the person has become entitled ;

" tribunal " means such referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, as has jurisdiction in respect of the district in which a claimant for compensation is or was last employed ;

" war service " in relation to any person means war service within the meaning of the Local Government Staffs (War Service) Act, 1939, or employment for war purposes within the meaning of the Superannuation Schemes (War Service) Superannuation Act, 1940.

3. The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Part II

Transfer of Officers

4. All officers who immediately before the appointed day were employed solely or mainly at or for the purposes of any hospital which is transferred to the Minister by virtue of the Act or of any such premises as are mentioned in paragraph 7 (1) of the Sixth Schedule to the National Assistance Act, 1948, shall on that day be transferred to and become officers of the Regional Hospital Board for the area in which the hospital or premises is situated or in the case of a teaching hospital the Board of Governors of that hospital :

Provided that any officer employed as aforesaid for the purposes of two or more hospitals, not all of which will be administered by the same Regional Hospital Board or Board of Governors, shall be transferred to such Board as the Minister shall determine.

5. All officers who immediately before the appointed day were employed solely or mainly at or for the purposes of a medical or dental school for which a new governing body is constituted under Part II of the Act shall on that day be transferred to and become officers of that governing body.

6. All officers who immediately before the appointed day were employed by the Common Council of the City of London, the council of a metropolitan borough or the council of a county district solely or mainly for the purposes of functions transferred from that council in consequence of the Act to a local health authority shall on that day be transferred to and become officers of that authority.

7. All officers who immediately before the appointed day were employed by an insurance committee for any county or county borough shall on that day be transferred to and become officers of

the Executive Council for the area comprising that county or county borough.

8. Any officer who immediately before the appointed day was employed by a joint insurance committee constituted under section 94 of the National Health Insurance Act, 1936, shall on that day be transferred to and become an officer of such Executive Council as the Minister shall determine.

9. Any question arising under any of the five last preceding regulations shall be determined by the Minister.

Part III

Compensation of Officers who suffer Loss of Employment or Diminution of Emoluments which is attributable to the passing of the Act

10. Subject to the provisions of the next succeeding regulation, every person who was an existing officer and who suffers loss of employment or diminution of emoluments which is attributable to the passing of the Act shall be entitled to have his case considered for the receipt of compensation under these regulations, such compensation to be determined in accordance with the provisions of the schedule hereto :

Provided that a person shall not be entitled to compensation for loss of employment at or for the purposes of a medical or dental school or for the diminution of the emoluments of any such employment.

11. Nothing in the last preceding regulation shall entitle a person to have his case considered for compensation unless—

(*a*) the cause of the claim to compensation arises not later than ten years after the appointed day, and the claim is made not later than two years after the date on which the cause of claim arises ; and

(*b*) (i) his office is abolished and he is not offered a reasonably comparable office in the Government service or the local government service or under any body constituted under the Act ; or

(ii) his appointment is determined because his services are not required or because his duties are diminished (no misconduct being established) ; or

(iii) his emoluments are diminished :

Provided that for the purposes of this regulation a person shall not be deemed to have been offered an office which is not reasonably comparable with an office which is abolished by reason only on

the fact that the duties of the office offered are duties in relation to the administration of a different service from that in connexion with which his office was held or are duties which involve a transfer of his employment from one place to another within England or Wales.

12. If a person who has claimed compensation under these regulations is aggrieved by the refusal of the compensating authority to accept his claim or by their failure to come to a decision on his claim within three months after the date on which it was received by them, or by a decision that no compensation should be paid to him or by the amount of compensation awarded, he may, within three months after the refusal or failure or after the date on which he received notice of the decision, as the case may be, refer the matter to the tribunal, and the tribunal shall consider any matter so referred in accordance with the provisions of these regulations and determine accordingly whether any, and if so what, compensation ought to be awarded to the claimant, and the compensating authority shall give effect to the decision of the tribunal.

13.—(1) Any compensation to which an officer becomes entitled under these regulations shall be paid by the compensating authority and shall be payable to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

(2) Any sum payable as compensation to a person by a local authority shall be recoverable as a debt due from the authority.

(3) Where the compensating authority is a constituent authority of a body which is dissolved as from the appointed day by virtue of section 78 of the Act, the other constituent authorities shall contribute towards the payment of any compensation payable by the first mentioned authority in such proportions as may be agreed between the constituent authorities or, in default of agreement, as may be determined by the Minister.

Part IV

Officers on War Service on the Appointed Day

14. Any person (hereinafter referred to as an "officer on war service") who is engaged in war service, immediately before the appointed day and who, if he had continued to be employed until the appointed day in the capacity in which he was employed before becoming engaged in war service, would have been an existing officer, shall be deemed to be an existing officer within the meaning of these regulations, and if at the date on which he ceased to be so employed he was subject to a pension scheme, and his war service or any part thereof would be reckonable for the purposes of that

scheme if he again became subject thereto on the termination of his war service, he shall also be deemed to be a pensionable officer within the meaning of these regulations.

15.—(1) Subject to the provisions of the next succeeding regulation, if an officer on war service ceases to be engaged in war service and in consequence of the Act—

(*a*) is not given or offered re-employment in his former office or in any reasonably comparable office, or is not employed or offered employment in any office to which, but for his war service, he would have been transferred by these regulations, or in any reasonably comparable office ; or

(*b*) is so re-employed or employed with reduced emoluments,

he shall be deemed for the purposes of these regulations, in the former case, to have suffered loss of employment which is attributable to the Act owing to the abolition of his office at the date of the refusal to re-employ him or employ him as aforesaid, and, in the latter case, to have suffered diminution of emoluments which is attributable to the Act.

(2) If an officer on war service to whom the preceding paragraph applies would, but for his war service, have been transferred by these regulations, the compensating authority in relation to him shall, if he would have been transferred to a local health authority, be that authority, and shall, in any other case, be the Minister.

16. No person shall, by virtue of the last preceding regulation, be entitled to have his case considered for compensation for any loss suffered by him by reason of his not being re-employed or employed as therein mentioned unless within a period of two months after the date on which he ceased to be engaged in war service he gives notice in writing to his former employer or to the authority to whom he would have been transferred by these regulations, as the case may be, that he is available for employment :

Provided that if the person is prevented from giving notice within the said period by his sickness or other reasonable cause, the notice may be given as soon as reasonably may be after the expiration of that period.

17. For the purpose of ascertaining the net emoluments of a person to whom regulation 15 applies such person shall be deemed to have continued to follow his former employment until the cause of claim arose and to have been entitled to the emoluments thereof.

18. In relation to a pensionable officer to whom sub-paragraph (*a*) of paragraph (1) of regulation 15 applies, the expression " accrued pension " means the pension to which he would have become entitled according to the method of calculation, as modified by paragraph 18

of the schedule to these regulations, prescribed by the pension scheme to which he was subject before becoming engaged in war service, if at the date on which he ceased to be engaged in war service he had been serving in his civil capacity and had attained normal retiring age, having complied with any requirement of the said pension scheme as to a minimum period of qualifying service.

SCHEDULE

Determination of Compensation

I. *General*

1. A person desiring to make a claim for compensation under these regulations shall make his claim in a form approved by the Minister for the purpose, and shall deliver his claim to the compensating authority. The claim shall be accompanied by a statutory declaration as to the truth of the statements contained therein.

2.—(1) Where the compensating authority are a local authority, a claimant, if so required by the local authority, by notice sent through the clerk of the authority, shall attend at a meeting of the authority, or of any committee appointed by the authority for the purpose, and answer all questions asked by any member of the authority or committee touching the matters set forth in his claim, and shall further produce all books, papers and documents in his possession or under his control relating to the claim.

(2) Where the compensating authority is the Minister a claimant, if so required by the Minister, shall attend before a person appointed by him for the purpose, and answer all questions asked by that person touching the matters set forth in his claim, and shall further produce all such books, papers and documents as aforesaid.

(3) A claimant required to attend at a meeting pursuant to sub-paragraph (1) of this paragraph or before a person appointed by the Minister pursuant to sub-paragraph (2) thereof may further be required to make a statutory declaration as to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the matters set forth in his claim.

(4) Such a claimant as aforesaid may be accompanied by a representative who shall be entitled to address the authority, committee or person before whom the claimant is required to attend touching the matters set forth in his claim.

II. *Compensation for Loss of Employment*

3. On receipt of a claim for compensation in respect of loss of employment, the compensating authority shall consider forthwith whether the claimant satisfies the conditions of eligibility for the payment of compensation set out in regulations 10 and 11 and if they are satisfied that these conditions are not fulfilled, shall reject the claim and advise the claimant in writing accordingly within one month after the receipt of the claim.

A. *Interim payments of Compensation*

4. If the compensating authority accept the claim, then, unless they

are satisfied that the claimant has substantially made good his loss by virtue of having obtained other employment, they shall forthwith commence to make interim payments of compensation to the claimant subject to and in accordance with the provisions of the next succeeding paragraph, and shall continue to make such payments until, in accordance with paragraph 6 of this schedule, they decide whether any further compensation is payable to him under these regulations.

5.—(1) Interim compensation shall be payable as from the date of claim, and shall be at a rate not exceeding two-thirds of the net emoluments of the employment which the claimant has lost, less two-thirds of any unemployment benefit to which the claimant may be entitled, and less any sum to which the claimant may be entitled by way of compensation under the Re-instatement in Civil Employment Act, 1944.

(2) In determining the amount of interim compensation, the compensating authority shall have regard to any payments to which the claimant becomes entitled in consequence of the loss of his employment under any contract or arrangement with the authority or body by whom he was employed (other than payments by way of a return of contributions under a pension scheme).

(3) The payments shall be made at intervals equivalent to those at which the said emoluments were previously payable, and the payments shall be reduced or terminated if the claimant obtains other employment or the compensating authority are satisfied that he is not actively seeking employment or has unreasonably refused suitable employment which has been offered to him.

(4) If the claimant obtains other employment, he shall immediately notify the compensating authority in writing accordingly.

(5) The compensating authority may require, as a condition of making or continuing to make interim payments, that the claimant should be registered for employment at an Employment Exchange, or the Appointments Department of the Ministry of Labour and National Service, at the option of the claimant.

B. *Assessment of Compensation*

6. Having determined the amount of the interim payments (if any) to be made under the preceding provisions of this schedule to a claimant whose claim has been accepted, the compensating authority shall, within a period of three months after the date of recept of the claim, assess the just amount (if any) of the compensation payable under the succeeding provisions of this schedule, and shall forthwith notify the claimant in writing of their decision.

7.—(1) The compensating authority shall, within a period of two years after the date on which any decision is notified to a claimant under paragraph 6 of this schedule, or if the claimant has referred any such decision to the tribunal under regulation 12, within a period of two years after the date of the decision of the tribunal, review their decision or the decision of the tribunal, as the case may be, at intervals of not more than six months, and on any review the compensating authority may, in the light of any material change in the circumstances of the case, award compensation or increase or reduce the amount of any compensation awarded.

(2) If the claimant obtains other employment within the said period

of two years, he shall immediately notify the compensating authority in writing accordingly.

(3) A claimant to whom a decision under paragraph 6 of this schedule has been notified may, within the like period as is mentioned in sub-paragraph (1) of this paragraph, require the compensating authority to review their decision or the decision of the tribunal, as the case may be, if he considers that there has been a material change in the circumstances of his case.

(4) The compensating authority shall forthwith notify the claimant in writing of their decision on any review under the preceding provisions of this paragraph, and if the claimant is aggrieved by such decision he may refer the matter to the tribunal within three months after the date on which he receives notice of the decision, and the tribunal shall determine any matter so referred, and the compensating authority shall give effect to the determination of the tribunal.

Compensation payable, subject to earlier cesser in certain cases, until normal retiring age

8. For the purpose of determining whether any compensation, apart from any interim compensation paid under paragraphs 4 and 5 of this schedule, is payable to any person for loss of employment, and if so the amount of the compensation to be paid, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, the compensating authority shall have regard to—

(*a*) the conditions upon which his appointment was made ;

(*b*) the nature of his office ;

(*c*) the extent to which he has sought suitable alternative employment ; and

(*d*) all the other circumstances of the case.

9.—(1) Compensation for loss of employment shall be an annual sum, calculated in accordance with the provisions of sub-paragraph (2) of this paragraph, and shall be payable, subject to the provisions of paragraph 11 of this schedule, until normal retiring age, as from the date of loss, if the claim was made within three months thereafter, and in any other case, as from the date on which the claim was made or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

(2) The said annual sum shall, subject as hereinafter provided, be the aggregate of the following sums, namely—

(*a*) for every completed year of the claimant's service, one-sixtieth of the net emoluments of the employment he has lost ; and

(*b*) in the case of a claimant over the age of forty-five years at the date of loss, a further one-sixtieth of the said net emoluments for every completed year of service since he attained the age of forty-five :

Provided that—

(i) where the claimant has undertaken or obtained other work or employment in place of the employment he has lost or has been offered other suitable employment, the said annual sum shall be calculated by reference only to the amount (if any) by which the annual rate of the emoluments of the employ-

ment he has lost exceeds the annual rate of the emoluments of the work or employment undertaken, obtained or offered to him as aforesaid ;

(ii) if the said annual sum is required to be calculated in accordance with proviso (i) to this sub-paragraph, it shall be reduced or increased by such amount (if any) as the compensating authority think fit, having regard to the relative security of tenure of the employment lost and the work or employment undertaken, obtained or offered as aforesaid, so however that the said annual sum shall not by virtue of any such increase as aforesaid be greater than if it were calculated without reference to proviso (i) and this proviso ;

(iii) the said annual sum shall also be reduced by such an amount (if any) as the compensating authority think fit having regard to the matters to which they are required to have regard by the last preceding paragraph and to any compensation payable to the claimant under the Re-instatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment ; and

(iv) the said annual sum shall in no case exceed two-thirds of the net emoluments of the employment which the claimant has lost.

10. There shall be deducted from any payments made under paragraph 9 of this schedule in respect of any period in respect of which interim payments have been made under paragraphs 4 and 5 the amount of such payments, so far as they do not exceed the payments due under paragraph 9 in respect of that period.

Compensation payable to pensionable officer on his becoming incapacitated or reaching pensionable age

11.—(1) If the claimant was a pensionable officer, and before attaining normal retiring age—

(*a*) he becomes incapacitated in circumstances in which if he had continued in the employment he has lost he would have become entitled to a pension under the pension scheme to which he was last subject before losing his employment ; or

(*b*) he attains an age at which had he continued to serve in the employment he has lost he would have become entitled to retire with a pension on the ground of having attained that age and completed a prescribed period of service,

and compensation is not then payable to him under these regulations, or compensation by way of an annual sum equal to the amount of his accrued incapacity pension or his accrued pension, as the case may be, together with the annual value of his accrued retiring allowance (if any), would be greater than the annual amount of any compensation to which he may then be entitled under these regulations, he shall be entitled, if he so requests at any time thereafter by notice in writing to the compensating authority, as from the date on which the compensating authority receive such notice, in lieu of any compensation to which he would otherwise be entitled under these regulations—

(i) in the case mentioned in head (*a*) of this sub-paragraph, to an annual sum equal to the amount of his accrued incapacity

pension, and a lump sum equal to the amount of his accrued retiring allowance (if any); and

(ii) in the case mentioned in head (*b*) of this sub-paragraph, to an annual sum equal to the amount of his accrued pension and a lump sum equal to the amount of his accrued retiring allowance (if any):

Provided that if in calculating the amount of compensation payable to a person who has given such notice as aforesaid, the compensating authority, by virtue of paragraph 20 of this schedule, have credited him with additional years of service or contributions, no account shall be taken for the purpose of the foregoing provision of any number of such additional years beyond the number of years which he could have served, had he not lost his employment, before the date on which such notice as aforesaid was received by the compensating authority.

(2) On receipt of a notice under the last preceding sub-paragraph, the compensating authority shall consider forthwith whether the person giving the notice is a person to whom that sub-paragraph applies, and within three months after the date of the receipt of the notice—

(*a*) if they are satisfied that he is not such a person, they shall notify him in writing accordingly; and

(*b*) if they accept the notice, they shall assess the amount of compensation payable to the person and notify him in writing accordingly,

and any such notification shall, for the purposes of these regulations, be deemed to be a notification by the authority of a decision on a claim to compensation.

(3) A compensating authority may require any such person as is mentioned in head (*a*) of sub-paragraph (1) of this paragraph, who gives a notice under that sub-paragraph, to submit himself to a medical examination by a registered medical practitioner selected by that authority, and, if they do so, they shall also offer the person an opportunity of submitting a report from his own medical adviser as a result of an examination by him, and the authority shall take that report into consideration, together with the report of the medical practitioner selected by them.

Compensation payable to a pensionable officer on attainment of normal retiring age

12. Subject as hereinafter provided, the compensation payable to a claimant who was a pensionable officer (not being a person to whom paragraph 11 has been applied) on his attaining normal retiring age shall be—

(*a*) an annual sum equal to the amount of his accrued pension; and

(*b*) a lump sum equal to the amount of his accrued retiring allowance (if any).

Supplementary provisions as to compensation payable to pensionable officer

13.—(1) Where a claimant, after suffering loss of employment, enters employment in which he participates in the benefits of the pension scheme associated with the employment he has lost, or becomes entitled

to participate in any other pension scheme, in circumstances in which he is entitled to reckon for the purposes thereof service which falls to be taken into account for the purpose of assessing compensation under paragraph 11 or 12 of this schedule, no compensation under either of those paragraphs shall be payable unless the amount of the annual rate of the emoluments of the employment he has lost exceeds the amount of the annual rate of the emoluments to which he becomes entitled on entering such employment as aforesaid by more than 5 per cent. of the first-mentioned amount, and any compensation payable there under shall be calculated by reference only to the amount of the difference.

(2) If a claimant has unreasonably refused a suitable offer of such employment as is mentioned in the preceding sub-paragraph, he shall be deemed for the purposes of that sub-paragraph to have entered the employment so offered to him.

14. The provisions of paragraphs 11 and 12 of this schedule shall not apply to a person who had been participating in a scheme for providing superannuation benefits by means of contracts or policies of insurance, and who, on losing his employment, continued to participate in that scheme, or became entitled to a benefit or prospective benefit thereunder other than a return of contributions.

15.—(1) If the claimant was a person in respect of whose service a widow's pension might have become payable under the pension scheme to which he was last subject before losing his employment, then, if he so desires and informs the compensating authority by notice in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of widow's pension, in consideration of the payment by the compensating authority to the person who as his widow might have become entitled to such widow's pension as aforesaid in the event of her surviving him—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled had he, immediately before he died, become entitled to a pension under the pension scheme on grounds of ill-health of an amount equal to the amount of his accrued incapacity pension, less the part thereof surrendered under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 17 ; and

(*b*) if he dies on or after attaining normal retiring age, or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of an annual sum equal to the amount of the pension to which she would have become entitled in accordance with the method of calculation prescribed by the pension scheme had he, at the date on which he attained normal retiring age, or gave the said notice, become entitled to a pension under the pension scheme of an amount equal to the amount of his accrued pension or accrued incapacity pension, as the case may be, less the part thereof surrenderd under the provisions of this paragraph and any part thereof surrendered under the provisions of paragraph 17.

(2) In the calculation of the amount of the annual sum payable to a widow under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

(3) Any sum payable to a widow under this paragraph shall cease to be payable or shall be suspended in any circumstances in which a widow's pension under the aforesaid pension scheme would have ceased to be payable or would have been suspended.

16. If under the pension scheme to which he was last subject before losing his employment, the claimant would have been entitled to surrender a proportion of any pension which might have become payable to him in favour of his spouse or any dependent, then, if he so desires and informs the compensating authority in writing accordingly within one month after becoming entitled to compensation under paragraph 11 or 12 of this schedule, he may surrender a proportion of so much of the said compensation as is payable by way of an annual sum on the like terms and conditions and in consideration of the like payments by the compensating authority as if the said annual sum were a pension to which he had become entitled under the said pension scheme.

17.—(1) If the claimant was a person in respect of whose service a death benefit might have become payable to his legal personal representatives under the pension scheme to which he was last subject before losing his employment, then, if he so desires, and informs the compensating authority in writing accordingly when making his claim, he may surrender so much of any annual sum which may become payable to him as compensation under paragraph 11 or 12 of this schedule as represents the annual value of the contingent right in respect of the said benefit, in consideration of the payment by the compensating authority to his legal personal representatives—

(*a*) if he dies before attaining normal retiring age, and without having given a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any death benefit which would have become payable in accordance with the method of calculation, as modified by the next succeeding paragraph, prescribed by the pension scheme to which he was last subject before losing his employment, had he died immediately before the date on which he lost his employment and complied with any requirement of the said scheme as to a minimum period of qualifying service ; or

(*b*) if he dies on or after attaining normal retiring age or after giving a notice pursuant to the provisions of paragraph 11 of this schedule, of a sum equal to the amount of any such death benefit as aforesaid, less a sum equal to the aggregate amount of any payments made to him by way of compensation under paragraph 11 or 12 of this schedule.

(2) In the calculation of the amount of the sum payable under the preceding sub-paragraph, account shall be taken of any additional years of service or additional contributions credited to the claimant under paragraph 20 of this schedule :

Provided that no account shall be taken of any number of such additional years of service or contributions beyond the number of years which the claimant could have served before his death had he not lost his employment.

18. For the purposes of these regulations—

(*a*) the amount of any accrued pension or accrued incapacity pension, if the number of years of service by reference to which the pension is to be calculated is less than any minimum number of years of qualifying service prescribed by the pension scheme, shall, notwithstanding any minimum benefit prescribed by the pension scheme, not exceed such proportion of such minimum benefit as the number of years of pensionable service bears to the minimum number of years of qualifying service; and

(*b*) if the amount of any death benefit falls to be ascertained, by virtue of any pension scheme, wholly or partly by reference to the emoluments or average emoluments of a pensionable officer, and the number of years of his pensionable service is less than any minimum number of years of qualifying service prescribed by the pension scheme for the receipt of a death benefit, the said amount shall not exceed such proportion of the emoluments or average emoluments of the officer as the number of years of pensionable service bears to the minimum number of years of qualifying service.

19. If under the pension scheme to which the claimant was last subject before suffering loss of employment the amount of any pension to which he might have become entitled might have been increased at the discretion of the authority administering the pension scheme or of any other body or if under the said pension scheme any additional or supplementary payments might have been made to the claimant on his becoming entitled to a pension, the compensating authority may increase the compensation payable under paragraph 11 or 12 of this schedule by an annual sum not exceeding the amount by which his accrued incapacity pension or accrued pension might have been increased or the annual value of the payments which might have been made to him by way of addition to or supplementation of his accrued pension.

20. If the claimant had attained the age of forty years at the date on which he lost his employment, the compensating authority in calculating the amount of the compensation payable to him under paragraph 11 or 12 of this schedule may credit him with additional years of service or additional contributions not exceeding one year of service or one year's contributions for each completed year between the date on which he attained the age of forty years and the date on which he lost his employment, but not in any case exceeding ten years or such number of years as the claimant could have served had he continued in his employment until attaining normal retiring age, whichever is the less.

21. In deciding whether to add any number of years under the last preceding paragraph, the compensating authority shall have regard to the considerations set out in paragraph 8 of this schedule, and also to the claimant's rights under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost.

22.—(1) If the claimant was such an officer as is mentioned in paragraph 14 of this schedule, the compensating authority may make such payments to or in respect of him, whether by way of the payment of premiums or otherwise, as are actuarially equivalent to the compensation which could have become payable to him by virtue of paragraph 19 or 20 of this schedule if he had been a person to whom paragraph 11 or 12 applied.

(2) If the claimant is such an officer as aforesaid, and he becomes entitled to a benefit under such a scheme as is mentioned in paragraph 14 of this schedule before reaching normal retiring age, the compensating authority may reduce any compensation payable to him under paragraph 9 of this schedule accordingly.

23.—(1) Compensation shall not be payable or shall cease to be pay-payable under paragraph 11 or 12 of this schedule to a person who has received any sum by way of a return of contributions under the pension scheme to which he was last subject on his ceasing to be subject thereto, unless forthwith on receiving such sum he pays to the compensating authority an amount equivalent thereto, such amount to be held by the compensating authority subject to the condition that if the pension scheme made no provision for death benefit and he dies before he has received in the aggregate by way of compensation under paragraph 11 or 12 of this schedule a sum equal to the amount so paid as aforesaid to the compensating authority, together with compound interest thereon, calculated at the rate of 2½ per cent. per annum, with half-yearly rests, up to the date of his death, as from the first day of April or the first day of October following the half year in which the amount was paid, there shall be paid to his legal personal representatives the difference between the aggregate amount received by way of compensation and the same sum :

Provided that—

(*a*) if a sum becomes payable to his widow on his death under paragraph 15 of this schedule and on her death or re-marriage the sum ceases to be payable, and the aggregate amount of the payments which were made to her or her husband under these regulations is less than a sum equal to the amount so paid to the compensating authority by her husband as aforesaid on account of contributions, after the addition thereto of interest thereon as aforesaid, there shall be paid to her legal personal representatives the difference between the aggregate amount of the payments made to her or her husband as aforesaid and the said sum ;

(*b*) this paragraph shall not apply to a person to whom paragraph 13 of this schedule applies, and in the event of a claimant becoming such a person after having made a payment under this paragraph, the amount of the sum so paid shall be returned to him by the compensating authority ; and

(*c*) this paragraph shall not apply to a person who has been an officer on war service to whom regulation 15 applies, and who received a return of contributions before ceasing to be engaged in war service.

(2) A person to whom paragraph 11 or 12 of this schedule may become applicable shall on or before the date on which compensation may become payable to him thereunder be entitled, if he so desires

and informs the compensating authority in writing accordingly, to receive from the compensating authority in lieu of any such compensation—

(*a*) if the person has paid any sum to the compensating authority under sub-paragraph (1) of this paragraph, an amount equivalent thereto, together with interest thereon, calculated in the manner provided by the pension scheme as from the date of payment of the said sum ; and

(*b*) if the person has not received a return of contributions under the pension scheme, and if, being entitled to such a return he has relinquished that right, an amount equivalent to the amount of such contributions together with interest thereon, calculated in manner provided by the pension scheme ;

and any liability of the compensating authority under paragraph 15 or 17 of this schedule shall cease in the event of his giving such notice as aforesaid.

Compensation payable to non-pensionable officer after attainment of normal retiring age

24.—(1) If the claimant was not a pensionable officer, the compensating authority may, on his attaining normal retiring age, if they are satisfied that he would in the normal course have continued in the employment he has lost for a substantial period beyond that age, continue to pay compensation to him for the remainder of his life at half its former rate.

(2) If the claimant was not a pensionable officer and suffers loss of employment on or after attaining normal retiring age, the compensating authority may, if they are satisfied that he would in the normal course have continued in the employment he has lost for a further substantial period, pay compensation to him for the remainder of his life at half the rate to which he would have been entitled under paragraph 9 of this schedule had he not attained normal retiring age at the date on which he lost his employment.

III. *Compensation for diminution of emoluments*

25. On receipt of a claim for compensation for diminution of the emoluments of any employment the compensating authority shall within a period of three months after the date of receipt of the claim decide whether any compensation is payable and, if so, the amount of that compensation, and shall forthwith notify the claimant in writing of their decision.

26. A decision under the last preceding paragraph shall be subject to review in like manner as a decision under paragraph 6 of this schedule :

Provided that :—

(*a*) no review shall take place after the date on which the claimant loses that employment, except a review as at that date ; and

(*b*) while the claimant continues to hold that employment, there shall be no limit to the period within which a review may take place.

27. In determining whether compensation is payable and, if so, the amount of that compensation, the compensating authority shall have regard to the conditions upon which the claimant's appointment was made, the nature of his office, and all the other circumstances of the

case. No compensation shall be payable where the diminution is less than five per cent. of the net emoluments of the claimant.

28. Compensation for diminution of emoluments shall be an annual sum payable as from the date of loss, if the claim was made within three months thereafter, and in any other case as from the date on which the claim was made, or from such earlier date, not being more than three months before the date on which the claim was made, as the compensating authority may in their discretion allow.

29. Compensation to a person for diminution of the emoluments of any employment shall be payable for the same period or periods as compensation for loss of employment and shall not during any period exceed a sum bearing the same proportion to the maximum amount of compensation which could have been awarded in respect of that period had he lost his employment as the amount by which his net emoluments are diminished bears to their amount before diminution :

Provided that the compensation shall cease if the person voluntarily relinquishes his employment without the consent of his employer otherwise than on reaching pensionable age.

30. A person entitled to compensation for diminution of emoluments shall have the like rights in relation to such compensation as are conferred by paragraphs 15, 16 and 17 upon a person entitled to compensation for loss of employment.

IV. *Miscellaneous*

31. Any dispute as to who are the compensating authority for the purposes of these regulations shall, in default of agreement, be determined by the Minister :

Provided that if the Minister is a party to the dispute, the matter shall be determined by the Treasury.

32.—(1) A notification of a decision by a compensating authority to a claimant for compensation under these regulations shall contain a statement directing the attention of the claimant to his right, if he is aggrieved by the decision, to refer the matter to the tribunal, and giving him the address of the office to which the reference should be sent.

(2) The proceedings on any reference under these regulations to the tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, applies.

(3) On any such reference the tribunal may, if it thinks fit, appoint a person having special knowledge or experience in relation to the subject matter of the reference to sit with the tribunal as an assessor.

33. For the purpose of determining the amount of any compensation payable in respect of the loss of a whole-time office or of any two or more offices which in the aggregate involved the whole-time employment of an officer, any previous period of part-time employment shall be treated as though it were whole-time employment for a proportionately reduced period.

34. For the purpose of making any calculation under these regulations in respect of the service of an officer all periods of his service shall be aggregated, and if the aggregated service includes a fraction of a year, that fraction shall, if it equals or exceeds six months, be treated as a year, and in any other case be disregarded.

35. If in determining the amount of any compensation payable to a person under these regulations account is taken of any employment

prior to the first world war and that person was temporarily absent from that employment during that war whilst serving in His Majesty's Forces or the Forces of the Allied or Associated Powers, either compulsorily or with the sanction or permission of the authority in whose employment he was immediately before such temporary absence, such period of temporary absence shall be reckoned as a period of service:

Provided that, in the case of a person who after the 11th day of November, 1918, voluntarily extended his term of service in such Forces, no period of absence during any such extension shall be reckoned.

36.—(1) Where a person to whom compensation is payable under these regulations for loss of employment has become or becomes entitled to a pension in respect of the employment he has lost otherwise than on losing such employment or where a person to whom compensation is payable under these regulations for loss of employment or diminution of emoluments has become or becomes entitled to a pension in respect of any employment the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and in calculating the amount of such pension account is taken of any service which was taken into account in calculating the compensation payable, then, if the compensation does not exceed such part of the pension as is attributable solely to that service, the compensation shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(2) Where a claimant's widow to whom an annual sum is payable under paragraph 15 or 30 of this schedule has become or becomes entitled to a widow's pension in respect of any employment of her husband the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and any part of such widow's pension is attributable to service of her husband of which account was taken in calculating his accrued pension or accrued incapacity pension by reference to which the said annual sum was calculated, then if the said annual sum does not exceed such part of the pension as is attributable solely to that service, the said annual sum shall cease to be payable, and if it exceeds such part of the pension as aforesaid, it shall be reduced by an amount equal to that part.

(3) Where a claimant's legal personal representatives to whom a sum is payable on the claimant's death under paragraph 17 or 30 of this schedule have become entitled to receive a death benefit under a pension scheme associated with any employment of the claimant the remuneration of which was payable out of public funds and which he had obtained in place of the employment he had lost or in place of or in addition to the employment the emoluments of which were diminished, and as one of the factors in the calculation of the amount of such benefit account fell to be taken of any service which fell to be taken into account as one of the factors in the calculation of the said sum, the said sum shall be reduced by an amount equal to such proportion of the amount of the death benefit as the number of years of the said service bears to the total number of years of service of which account fell to be taken as aforesaid in the calculation of the death benefit.

(4) Where any compensation, annual sum or lump sum is reduced in accordance with the foregoing provisions of this paragraph, such compensation, annual sum or lump sum shall be further reduced by an amount equal to such part thereof (if any) as is attributable to any additional years of service or contributions credited in accordance with paragraph 20 of this schedule and by an amount equal to such part thereof (if any) as is attributable to any minimum benefit prescribed by a pension scheme.

(5) This paragraph shall not apply to or in respect of a person in whose case paragraph 13 of this schedule has been applied, except to the extent to which the amount of the pension, widow's pension or death benefit to which the person, his widow or his legal personal representatives have become or becomes entitled as aforesaid is attributable to annual emoluments of a greater amount than the amount of the annual emoluments to which the person became entitled on entering the employment referred to in that paragraph.

(6) This paragraph shall not apply to or in respect of a person to whom compensation is or was payable for diminution of emoluments and who has become entitled to a pension in respect of employment which he had obtained in place of the employment the emoluments of which were diminished or whose widow has become entitled to a widow's pension or whose legal personal representatives have become entitled to a death benefit in respect of such employment, except to the extent to which the amount of the pension, widow's pension or death benefit is attributable to annual emoluments of a greater amount than the amount of the annual emoluments of the person's former employment after their diminution.

37.—(1) If a person receiving compensation for loss of employment obtains other employment in place of the employment he has lost and the remuneration thereof is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation in respect of such loss than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the employment he has lost.

(2) If a person receiving compensation for diminution of the emoluments of any employment loses that employment in circumstances in which he does not become entitled to compensation in respect of that loss and thereupon or thereafter he obtains in place of that employment other employment the remuneration of which is payable out of public funds, he shall not, so long as he holds that employment, be entitled to receive any greater sum by way of compensation than would make up the amount (if any) by which the net emoluments of that employment fall short of the net emoluments of the former employment before diminution.

38.—(1) If a person becomes subject to the provisions of either of the two last preceding paragraphs he shall immediately notify the compensating authority in writing accordingly.

(2) A person who has become subject to the provisions of the last preceding paragraph shall also notify the compensating authority in writing of any increase in the remuneration of the employment he has obtained in place of the employment he lost.

39.—(1) Notwithstanding the preceding provisions of this schedule,

if the annual sum which has been or might be awarded under those provisions does not exceed twenty-six pounds, the compensating authority may at their discretion discharge their liability in respect thereof by the payment of a lump sum representing the capital value of the annual sum, and if any lump sum has been or might be awarded in addition to such annual sum under the provisions of paragraph 12 of this schedule, the compensating authority may likewise discharge their liability in respect thereof by an immediate lump sum payment.

(2) If the annual sum which has been or might be so awarded exceeds twenty-six pounds and the claimant is not entitled to any lump sum in respect of accrued retiring allowance under these regulations, the compensating authority, if so requested by the claimant, may discharge their liability in respect of one quarter thereof by the payment of a lump sum representing the capital value of one quarter of the annual sum :

Provided that if the remaining three-quarters thereof does not exceed twenty-six pounds the compensating authority may discharge their liability as aforesaid in respect of the whole of the said sum.

(3) Any lump sum payable under the preceding provisions of this paragraph shall be of such amount as shall be certified by an actuary to be appropriate.

EXPLANATORY NOTE

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

(*Paragraph numbers refer to the Schedule*)

These regulations provide for the transfer to Regional Hospital Boards of officers employed at hospitals which are transferred to the Minister under the National Health Service Act and for the transfer of officers employed by bodies from whom functions are transferred by that Act to the appropriate authority.

The regulations also provide the machinery for compensating persons losing employment or remuneration as a result of the transfer of functions under the National Health Service Act. A claimant must have served for eight years in central or local government, voluntary hospital, etc., employment (see definition of " existing officer " in regulation 2). If he has not refused a reasonably comparable office (regulation 11) he will be eligible for " interim " payments of two thirds of his net emoluments, with deductions if he gets other employment or unemployment benefit, for a period of up to three months (paragraphs 4 and 5). During this period his claim will be assessed. He will be expected to look for and take other suitable employment (paragraphs 5 (5) and 8). Compensation will be payable to him up to normal retiring age, and will be an annual sum based on a percentage of his net emoluments and the

length of his service. The amount will be adjusted, in the light of the circumstances of any case, regard being had to any other emoluments which have or could have been obtained and the other factors mentioned in paragraphs 8 and 9. The award will be subject to review for a period of two years. If pensionable in his old employment, he will have a right to a payment equivalent to his accrued pension rights as from the age at which he would have retired, and in this payment account will be taken of any rights that may have existed under the pension scheme in respect of widow's pension, death benefit or incapacity pension (paragraphs 11, 12, 15, 16 and 17). For persons over 40, an addition may be made in recognition of their loss of future pensionable service (paragraph 20). If the claimant was not pensionable, compensation will cease at normal retiring age unless he had expected to continue for a substantial period thereafter, in which case he will receive compensation after that age, for life, at half the rate he was getting up to that age (paragraph 24). Overlap with pension or remuneration from public funds is avoided (paragraphs 13, 36 and 37). A claimant who is aggrieved by a decision of a compensating authority may appeal to referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor (regulation 12).

(S. I. 1948, No. 1483)

The National Health Service (Superannuation) (England and Scotland) Regulations, 1948

Made . . . 30*th June*, 1948

The Minister of Health and the Secretary of State, in exercise of the powers conferred on them by subsection (2) of section 67 of the National Health Service Act, 1946, and subsection (2) of section 66 of the National Health Service (Scotland) Act, 1947, hereby make the following regulations :—

Citation and Interpretation

1.—(1) These regulations may be cited as the National Health Service (Superannuation) (England and Scotland) Regulations, 1948.

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

(3) In these regulations, unless the context otherwise requires,

the following expressions have the meanings hereby assigned to them :—

" the English Act " means the National Health Service Act, 1946 ;

" the Scottish Act " means the National Health Service (Scotland) Act, 1947 ;

" the English regulations " means the regulations made by the Minister of Health under subsection (1) of section 67 of the English Act ;

" the Scottish regulations " means the regulations made by the Secretary of State under subsection (1) of section 66 of the Scottish Act ;

" English employing authority " means an employing authority within the meaning of the English regulations ;

" Scottish employing authority " means an employing authority within the meaning of the Scottish regulations ;

" employee of an English employing authority " and " employee of a Scottish employing authority " include a person who is treated as being an officer in the employment of an employing authority for the purposes of the English regulations or the Scottish regulations, as the case may be ;

" English contributory employee or local Act contributor " means a contributory employee or local Act contributor within the meaning of the Local Government Superannuation Act, 1937, and " Scottish contributory employee or local Act contributor " means a contributory employee or local Act contributor within the meaning of the Local Government Superannuation (Scotland) Act, 1937 ;

" English teacher " means a person in contributory service under the Teachers (Superannuation) Acts, 1918 to 1946 otherwise than under any scheme made under section 21 (1) (*a*) of the Teachers (Superannuation) Act, 1925, or otherwise than by virtue of section 13 (2) (*g*) of that Act ;

" Scottish teacher " means a person in service recorded in terms of the Superannuation Scheme framed and approved under the Education (Scotland) Superannuation Acts, 1919 to 1939, and any amendment thereof.

Application of Scottish regulations to employees of English employing authorities, English contributory employees or local Act contributors and English teachers who become employees of Scottish employing authorities

2. Where a person becomes an employee of a Scottish employing authority after ceasing to be an employee of an English employing

authority, an English contributory employee or local Act contributor or an English teacher, the Scottish regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the English regulations had he become an employee of an English employing authority.

Application of English regulations to employees of Scottish employing authorities, Scottish contributory employees or local Act contributors and Scottish teachers who become employees of English employing authorities

3. Where a person becomes an employee of an English employing authority after ceasing to be an employee of a Scottish employing authority, a Scottish contributory employee or local Act contributor or a Scottish teacher, the English regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the Scottish regulations had he become an employee of a Scottish employing authority.

Application of Scottish regulations to employees of Scottish employing authorities who become English contributory employees or local Act contributors or English teachers

4. Where a person becomes an English contributory employee or local Act contributor or an English teacher after having ceased to be an employee of a Scottish employing authority, the Scottish regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the said regulations had he become a Scottish contributory employee or local Act contributor or a Scottish teacher, as the case may be.

Application of English regulations to employees of English employing authorities who become Scottish contributory employees or local Act contributors or Scottish teachers

5. Where a person becomes a Scottish contributory employee or local Act contributor or a Scottish teacher after having ceased to be an employee of an English employing authority, the English regulations shall have effect in relation to him subject to such modifications as may be necessary to secure that he shall enjoy rights substantially similar to those which he would have enjoyed by virtue of the said regulations had he become an English contributory employee or local Act contributor or an English teacher.

Transfer Values payable to and by the Secretary of State

6.—(1) Where a person becomes an employee of a Scottish employing authority after ceasing to be an English contributory employee or local Act contributor, the like transfer value (if any) shall be payable to the Secretary of State out of the fund in relation to which the person was a contributor by the authority maintaining that fund as would have been payable to the Minister of Health by virtue of the English regulations had the person become an employee of an English employing authority.

(2) Where a person becomes an employee of a Scottish employing authority after ceasing to be an English teacher, the like transfer value (if any) shall be payable by the Minister of Education to the Secretary of State as would have been payable to the Minister of Health by virtue of the English regulations had the person become an employee of an English employing authority after ceasing to be a contributory employee.

(3) Where a person becomes an English contributory employee or local Act contributor after ceasing to be an employee of a Scottish employing authority, the like transfer value (if any) shall be payable by the Secretary of State to the authority maintaining the fund in relation to which the person so becomes a contributory employee or local Act contributor as would have been payable by virtue of the Scottish regulations had the person become a Scottish contributory employee.

(4) Where a person becomes an English teacher after ceasing to be an employee of a Scottish employing authority the like transfer value (if any) shall be payable by the Secretary of State to the Minister of Education as would have been payable by the Secretary of State by virtue of the Scottish regulations had the person become a Scottish contributory employee.

Transfer Values payable to and by the Minister of Health

7.—(1) Where a person becomes an employee of an English employing authority after ceasing to be a Scottish contributory employee or local Act contributor, the like transfer value (if any) shall be payable to the Minister of Health out of the fund in relation to which the person was a contributor by the authority maintaining that fund as would have been payable to the Secretary of State by virtue of the Scottish regulations had the person become an employee of a Scottish employing authority.

(2) Where a person becomes an employee of an English employing authority after ceasing to be a Scottish teacher the like transfer value (if any) shall be payable by the Secretary of State to the

Minister of Health as would have been payable to the Secretary of State by virtue of the Scottish regulations had the person become an employee of a Scottish employing authority after ceasing to be a Scottish contributory employee.

(3) Where a person becomes a Scottish contributory employee or local Act contributor after ceasing to be an employee of an English employing authority, the like transfer value (if any) shall be payable by the Minister of Health to the authority maintaining the fund in relation to which the person so becomes a contributory employee or local Act contributor as would have been payable by virtue of the English regulations had the person become an English contributory employee.

(4) Where a person becomes a Scottish teacher after ceasing to be an employee of an English employing authority the like transfer value (if any) shall be payable by the Minister of Health to the Secretary of State as would have been payable by the Minister of Health by virtue of the English regulations had the person become an English contributory employee.

Accounts and actuarial investigations

8.—(1) Any revenue received and expenditure incurred under these regulations by the Minister of Health or the Secretary of State (other than revenue received and expenditure incurred by the Secretary of State under paragraphs (2) and (4) of regulation 7 of these regulations) shall be treated for the purposes of paragraph (1) of regulation 37 of the English regulations or the Scottish regulations, as the case may be, as if it were received and incurred, in the former case, under the English regulations and in the latter case under the Scottish regulations.

(2) Paragraph (2) of regulation 37 of the English regulations shall have effect as if the reference therein to the transfer of a person to or from employment subject to those regulations from or to any such other employment as is therein mentioned included a reference to the transfer of a person to or from employment subject to those regulations from or to employment subject to the Scottish regulations, and as if the reference therein to the liability of which the Treasury, the Minister of Education or the Minister of Health is relieved included a reference to the liability of which the Secretary of State is relieved as a result of any such transfer.

(3) Paragraph (2) of regulation 37 of the Scottish regulations shall have effect as if the reference therein to the transfer of a person to or from employment subject to those regulations from or to any such other employment as is therein mentioned included a reference

to the transfer of a person to or from employment subject to those regulations from or to employment subject to the English regulations, and as if the reference therein to the liability of which the Treasury or the Secretary of State is relieved included a reference to the liability of which the Minister of Health or the Minister of Education is relieved as a result of any such transfer.

Determination of questions

9. Any question arising under these regulations shall be determined by the Minister of Health and the Secretary of State jointly.

EXPLANATORY NOTE

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

The Minister of Health has made regulations under subsection (1) of section 67 of the National Health Service Act, 1946, providing superannuation benefits for persons employed in the central health service and in local health authority service. The Secretary of State has made similar provision as respects Scotland under subsection (1) of section 66 of the National Health Service (Scotland) Act, 1947. These regulations provide for interchangeability of service with preservation of superannuation rights between the English and Scottish health services, and between either of those services and the Local Government Service and the Teaching Service in Great Britain. Consequential provision is made for the payment of transfer values, etc., to and by the Minister of Health, the Secretary of State and the other authorities concerned.

(S. I. 1948, No. 1075)

The National Health Service (Emergency Mental Treatment) Regulations, 1948

Made	14*th May*, 1948
Laid before Parliament . .	25*th May*, 1948
Coming into Operation . .	5*th July*, 1948

The Minister of Health, in exercise of his powers under Section 12 of the National Health Service Act, 1946,[1] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

[1] 9 & 10 Geo. 6, c. 81.

1. These regulations may be cited as the National Health Service (Emergency Mental Treatment) Regulations, 1948, and shall come into operation on the fifth day of July, 1948.

2. The Interpretation Act, 1889,[1] applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. The Hospital Management Committee of every hospital or part of a hospital (in these regulations referred to as " the hospital ") vested in the Minister and designated by him for the purposes of Section 20 of the Lunacy Act, 1890,[2] shall make provision for and take all necessary steps to secure the carrying out of the following duties :—

(i) The keeping of a register in Form A in the Schedule to these regulations of the admission and discharge or death of every patient admitted to the hospital under the provisions of Section 20 or Section 21 of the Lunacy Act, 1890 ;

(ii) The examination by the medical officer of every such patient as soon as practicable after his admission to the hospital and also immediately before his removal to a mental hospital or other establishment, and the entry by the medical officer in the said register of a statement of the bodily condition of the patient at the date of the examination and of any bruises or marks of violence found on him ;

(iii) In every case in which such a patient is placed in a padded room, or is kept in seclusion (as defined by Rule 57 of the Mental Treatment Rules, 1948 [3]) between the hours of eight in the morning and seven in the evening, the recording thereof in a book in the Form B in the Schedule to these regulations, which may be included in the Register of Mechanical Restraint, and the production of the book or register to every Commissioner or Inspector of the Board of Control visiting the hospital ;

(iv) Within 48 hours of the death of any patient detained under the provisions of Sections 20, 21 and 21A of the Lunacy Act, 1890, the giving of notice thereof by the medical officer to the Coroner in From C in the Schedule to these regulations.

[1] 52 & 53 Vict., c. 63.
[2] 53 & 54 Vict., c. 5.
[3] S.I. 1948 No. 1071.

SCHEDULE.

FORM A.

REGISTER OF PATIENTS ADMITTED UNDER SECTIONS 20 AND 21 OF THE LUNACY ACT, 1890

Date of Admission	NAME	Age on Admission	By whose Order Detained and Date Authority Expires			RESULT OF EXAMINATION ON ADMISSION (Note any bodily defects, bruises, marks, old scars, signs of pregnancy, or the like)	Date of Discharge or Death	RESULT OF EXAMINATION ON DISCHARGE (Say whether any bodily defects, bruises, marks, signs of pregnancy, or the like)	Method of Disposal (If removed to a mental hospital state where and whether as a voluntary, temporary or certified patient)					
			Duly Authorised Officer or Constable (3 days)	Justice (14 days)	Certificate of Medical Officer (14 days)				For psychiatric treatment		To other hospital	Dealt with under Mental Deficiency Acts	To care of friends or own home	Otherwise disposed of
									To mental hospital	To other hospital				
						Dated this day of (Signed) Medical Officer of the Hospital.		Dated this day of (Signed) Medical Officer of the Hospital.						

FORM B

RECORD OF SECLUSION

Hours Secluded	Reasons for Seclusion	Date	Names of Patients	
			Males	Females

(*Note.*—At the beginning of this register a printed copy of any regulation or rule made by the Board and for the time being in force which relates to or defines seclusion must be inserted.)

FORM C

[Name of Hospital]

NOTICE OF DEATH OF PATIENT RECEIVED UNDER SECTION 20 OR 21 OF LUNACY ACT, 1890

I hereby give you notice that

a patient received into this hospital under the provisions of Section $\frac{*20}{*21}$,

of the Lunacy Act, 1890, on the day of , died therein on the day of .

(Signed)

Medical Officer.

Dated the day of .

To the Coronor for the County of [or as the case may be].

STATEMENT RESPECTING THE ABOVE-NAMED PATIENT.

Name

Sex and Age Married, single, or widowed.

Profession or occupation.

Usual residence (postal address) before admission. If the patient has been transferred from another Hospital or Institution (including Workhouses, etc.), the place of residence before admission to the first Institution should be given.

* Delete whichever is inapplicable.

Cause of Death.

I.		
Immediate cause * ...	*a*	.....
Morbid conditions, if any, giving rise to immediate cause (stated in order proceeding backwards from immediate cause)	*b*	.....
	c	.....
II.		
Other morbid conditions (if important) contributing to death but not related to immediate cause ...		.....
		.....

* This means the disease, injury or complication which caused death, not the mode of dying, as, e.g., heart failure, asphyxia, asthenia, etc.

Whether or not ascertained by post-mortem examination.

Time of and any unusual circumstances attending the death; also a description of any injuries known to exist at time of death or found subsequently on body of deceased, or a statement that there were none.

Names and description of persons present at the death.

I hereby certify that the particulars contained in the above statement are true to the best of my knowledge and belief.

(Signed)

Medical Officer.

Dated the day of .

EXPLANATORY NOTE

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

The regulations contain provisions for safeguarding the welfare of persons, alleged to be of unsound mind, who for their protection or the public safety are removed to hospitals designated for the purpose pending the taking of further proceedings for their reception into mental hospitals.

S. I. 1948, No. 1156

The National Health Service (Executive Councils) Amendment Regulations, 1948

Made	31*st May*, 1948
Laid before Parliament . .	2*nd June*, 1948
Coming into Operation . .	3*rd June*, 1948

The Minister of Health, in exercise of his powers under sections 41 and 79 of and the Fifth Schedule to the National Health Service Act, 1946,[1] and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1.—(1) These regulations may be cited as the National Health Service (Executive Councils) Amendment Regulations, 1948, and these regulations and the National Health Service (Executive Councils) Regulations, 1947 [2] (hereinafter referred to as the " principal regulations ") may be cited together as the National Health Service (Executive Councils) Regulations, 1947 and 1948.

(2) These regulations shall come into operation on the third day of June, 1948.

2. The principal regulations shall have effect as if the following regulation were added after regulation 6 :—

" *Vacation of Office.*—6A. If a member of the council, being a member appointed by the local health authority, is also a member or officer of that authority, he shall upon ceasing to be a member or officer of the authority, also cease to be a member of the council :

Provided that for the purpose of this regulation a person shall not be deemed to have ceased to be a member of the local health authority, if he has been re-elected a member thereof not later than the day of his retirement."

3. In paragraph (1) of regulation 8 of the principal regulations there shall be substituted for the word " resignation " the words " vacation of office."

4. The following regulation shall be added after regulation 18 of the principal regulations :—

" *Vacancy in Membership.*—18A. The proceedings of an ophthalmic services committee shall not be invalidated by any vacancy in the membership of the committee or by any defect in the appointment or qualification of any member thereof."

5. In paragraph (1) of regulation 19 of the principal regulations the word " or " shall be inserted at the end of sub-paragraph (*c*) and the following sub-paragraph shall be added immediately after the said sub-paragraph (*c*) :—

[1] 9 & 10 Geo. 6, c. 81. [2] S. R. & O. 1947 (No. 889) I, p. 1324.

" (*d*) had immediately before the appointed day his name included in the list of medical practitioners prepared by either the British Medical Association, the National Ophthalmic Treatment Board or the Incorporated Ophthalmic Council for use by approved societies for the purpose of ophthalmic benefit under the National Health Insurance Act, 1936 [1]; ".

6. After paragraph (3) of the said regulation 19 there shall be inserted the following paragraphs :—

" (4) The qualifications required by an ophthalmic optician or a dispensing optician, being a firm or company (whether corporate or unincorporate), for the purposes of Part IV of the Act and these regulations, shall be that at all premises at which the firm or company provide supplementary ophthalmic services such services shall be in the charge of a director or member or employee of the firm or company who possesses—

(*a*) in the case of a firm or company who propose to provide services as ophthalmic opticians, the qualifications required under paragraph (2) of this regulation, or

(*b*) in the case of a firm or company who propose to provide services as dispensing opticians, the qualifications required under paragraph (3) of this regulation.

(5) Notwithstanding the above provisions of this regulation a person who has the qualifications prescribed for a medical practitioner, ophthalmic optician or dispensing optician for the purpose of providing supplementary ophthalmic services in Scotland under the National Health Service (Scotland) Act, 1947,[2] or in Northern Ireland under the Health Services (Northern Ireland) Act, 1948,[3] shall for the purpose of Part IV of, and the Seventh Schedule to, the Act and these regulations be deemed to have the corresponding qualifications prescribed by these regulations."

The following statutory instruments, as well as those listed at the bottom of page 448, were received too late for inclusion *in extenso* in this work. A guide to their contents is, however, included in the supplementary index at the end of the book. It is also hoped to include them in a supplement to be published later: **1948/1488, 1948/1489, 1948/1490, 1948/1505, 1948/1506, 1948/1507, 1948/1579.**

[1] 26 Geo. 5 & 1 Edw. 8, c. 32.
[2] 10 & 11 Geo. 6, c. 27.
[3] 11 & 12 Geo. 6, c. 3. (N. I.)

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SUPPLEMENTARY INDEX

The following is a supplementary index of statutory instruments issued under the provisions of the National Health Service Act, 1946, which came to hand too late for inclusion in the body of this work. The references in all cases are to the numbers of the regulations, paragraphs, schedules, etc., which can be consulted in a King's Printer's copy of the statutory instrument obtainable from H.M. Stationery Office or through any book-seller.

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