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STATUTORY INSTRUMENTS

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**1948 No. 2434**

**THE NATIONAL INSURANCE AND CIVIL  
SERVICE (SUPERANNUATION) RULES, 1948.**

**PART I  
GENERAL**

**Citation, commencement and interpretation**

**1.—**(1) These Rules may be cited as the National Insurance and Civil Service (Superannuation) Rules, 1948, and shall come into operation on the 16th November, 1948.

(2) In these Rules, unless the context otherwise requires—

“the Act” means the Superannuation (Miscellaneous Provisions) Act, 1948;

“the Superannuation Acts” means the Superannuation Acts, 1834 to 1946;

“the National Insurance Act” means the National Insurance Act, 1946;

“the Unemployment Insurance Act” means the Unemployment Insurance Act, 1935;

“the Health Insurance Act” means the National Health Insurance Act, 1936;

“the Minister” means the Minister of National Insurance;

“former employment” and “former emoluments” have the meanings given to those expressions in Rule 3;

“health insurance business” means business under the Health Insurance Act;

“the appointed day” means the appointed day for the purposes of the National Insurance Act;(1)

“transferor” means, in relation to any fund or assets which, as at the appointed day, are transferred by virtue of, or in accordance with, these Rules, the person in whom such fund or assets were vested immediately before that day; and “transferee” means, in relation to any such fund or assets, the person to whom such fund or assets are so transferred;

“Civil Service retiring age” has the same meaning as “retiring age” in the Superannuation Act, 1935;

“tribunal” means a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor, or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State;

“number of years” includes a fractional number;

“war service” has the meaning given to that expression in paragraph 4 of the First Schedule to these Rules;

“pension,” “pension rights” and “pensionable employment,” and (subject to the provisions of the next following paragraph) “pension scheme” and “pension fund” have the same meanings as in the Act;

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and other expressions have the same meanings as in the Act, the Superannuation Acts or the National Insurance Act, as the case may be.

(3) Subject to the provisions of Rule 23, references in these Rules to a pension scheme or pension fund shall not apply to any such scheme or fund unless provision is made, either by statute relating to the scheme or fund or by trust deed, rules or other instrument made for the purposes thereof, as to the conditions upon which—

- (a) in the case of a contributory scheme or fund, persons may become and cease to be contributors; and
- (b) in every case, persons may become and cease to be entitled to benefits.

(4) References in these Rules to any enactment, rules or regulations shall include references to such enactment, rules or regulations as amended by any subsequent enactment, order, rules or regulations.

(5) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

## PART II

### PERSONS WHO BECOME CIVIL SERVANTS

#### **Length of service for purposes of the Superannuation Acts**

2.—(1) Subject to the provisions of these Rules, where a person has been employed full time—

- (a) by an Approved Society; or
- (b) by some other body (including a body of which the Society is a branch or section) administering the affairs of an Approved Society; or
- (c) by a body administering a special scheme under Section 73 of the Unemployment Insurance Act (which section relates to special schemes);

and, whether before or after the passing of the Act but before the 5th July, 1949, becomes a civil servant, then, if his employment by such Society or body was such as to satisfy the conditions provided in Rule 3, such employment shall be treated for the purposes of the Superannuation Acts in the manner provided by Rule 4 or, as the case may be, Rule 5.

(2) If a person who otherwise satisfies the provisions of the last preceding paragraph is unable to become a civil servant before the 5th July, 1949, by reason only of his failing on account of ill health or disablement to satisfy the Civil Service Commissioners, but commences to serve the State in an unestablished capacity before that date, and after continuous service in such a capacity becomes a civil servant at some later date, the Minister, with the consent of the Treasury, may direct that he shall be treated as having satisfied those provisions, and these Rules shall apply accordingly in his case but subject to such modifications as the Treasury may determine.

#### **Conditions to be satisfied in relation to former employment**

3.—(1) For the purposes of the last preceding rule and of Rule 10, the following conditions are to be satisfied in relation to a person's employment by such Society or body as is mentioned in the last preceding rule:—

- (a) that the person—
  - (i) was continuously in full time employment by such Society or body from the 1st January, 1946, until the relevant date, and had on the said 1st January, 1946, pension rights in a pension scheme associated with that employment, or was then by the

terms of his employment eligible to have such rights at a specified future date if he remained in the employment; or

(ii) on the 5th July, 1940, was employed full time by such Society or body in a permanent capacity or in a capacity having a recognised and considerable expectation of permanency, and was continuously so employed until the relevant date; and

(b) (except in the case of employment by a body administering a special scheme under Section 73 of the Unemployment Insurance Act) that during at least half of the person's working time from the 5th July, 1940 (or, if that is more favourable to the person, from the 1st January, 1946) until the relevant date, he was engaged in health insurance business.

(2) The provisions of this rule shall, in relation to any person who was engaged in war service at any time during the period from the 5th July, 1940, to the relevant date, apply subject to the provisions of the First Schedule to these Rules.

(3) Where in any particular case the foregoing conditions are not completely satisfied, but the facts of the case are such as in the opinion of the Minister show a substantial degree of satisfaction of the conditions and justify the treatment of the person as having satisfied them, the Minister may direct that the person shall be so treated, and these Rules shall apply accordingly.

(4) In this rule the expression “the relevant date” means—

(a) in the case of a person who becomes a civil servant, the date on which he last ceased to be employed by such Society or body;

(b) in the case of a person who suffers a loss of employment to which Rule 10 applies, the date of that loss of employment.

(5) In these Rules—

(a) the expression “former employment” means employment in relation to which the provisions of this rule are satisfied, and any earlier full time employment by such Society or body of which it is in continuation, and any reference to the period of a person's former employment shall be construed as referring to a continuous period ending with the relevant date, employment under successive employers being aggregated, so, however, that a period may in the discretion of the Minister be deemed to be continuous notwithstanding breaks in the employment due to sickness, unemployment or other reasonable cause, and the period or periods of any such breaks shall in that discretion be disregarded in computing the period of former employment;

(b) the expression “former emoluments” means, in relation to a person's former employment, the normal annual rate immediately before the relevant date of his salary or wages, and the amount received during the twelve months before the relevant date by way of commission, fees and other similar payments, and bonus, allowance or overtime pay incorporated in the general wages structure, including any regularly recurring overtime, and the money value during those twelve months of any personal travel privileges appertaining to the employment, but does not include payments for travelling on duty, subsistence, clerical assistance, office accommodation or overtime pay not incorporated as aforesaid.

### **Persons not having pension rights in former employment**

4.—(1) In the case of a person to whom Rule 2 applies, who did not on the 1st January, 1946, or at any time thereafter have pension rights in a pension scheme associated with his former employment, the period of his former employment shall, subject to the following provisions of this rule, be treated for the purposes of the Superannuation Acts as if it had been continuous service in an unestablished capacity ending immediately before the date on which the said person became a civil servant.

(2) The foregoing provisions of this rule shall not apply to any person unless, not later than the 5th July, 1949, he pays into the Exchequer a sum equal to two per cent. of his former emoluments multiplied by one half of the number of years of the period of his former employment:

Provided that—

- (a) a person may, with the consent of the Treasury, be permitted to pay the said sum by equal instalments to be deducted from his emoluments as a civil servant throughout the period of his service as a civil servant;
- (b) where a person dies or ceases to be employed as a civil servant before he attains Civil Service retiring age and no allowance or gratuity under the Superannuation Acts is payable in his case, an amount equal to the sum so paid (or, if he has been permitted to pay by instalments, an amount equal to the aggregate of the instalments he has paid) shall be repaid out of the Exchequer; and
- (c) where a person who has been permitted to pay by instalments dies or ceases to be employed as a civil servant before he attains Civil Service retiring age, and an allowance or gratuity under the Superannuation Acts is payable in his case, an amount equal to the aggregate of the instalments remaining unpaid shall be recoverable by deduction from that allowance or gratuity, either in one sum or in such instalments as the Treasury may determine.

(3) For the purposes of the foregoing paragraphs of this rule, any person the period of whose former employment exceeds twenty years shall be treated as if that period were twenty years.

(4) Where a person to whom this rule applies had at some time before the 1st January, 1946, pension rights in a pension scheme associated with his former employment, there shall for the purposes of this rule be excluded from the period of his former employment any part of that period which was pensionable employment for the purposes of that pension scheme:

Provided that the Minister may with the consent of the Treasury in any particular case direct that this paragraph shall not apply, or shall apply to part only of the pensionable employment.

(5) For the purposes of this rule, if the period of a person's former employment was not an exact number of years, any part of a year which is less than six months shall be ignored and any part which is six months or more shall be treated as one year.

### **Persons having pension rights in former employment**

5.—(1) In the case of a person to whom Rule 2 applies, who, on the 1st January, 1946, or at any time thereafter, had pension rights in a pension scheme associated with his former employment, the period of his former employment shall be taken into account for the purposes of the Superannuation Acts subject to, and to the extent provided by, the following provisions of this rule.

(2) Such part of the period of his former employment as was pensionable employment for the purposes of that pension scheme shall—

- (a) where in the opinion of the Minister after consultation with the Government Actuary the rights conferred by that scheme were not substantially inferior in value to the benefits conferred on civil servants by the Superannuation Acts, be treated as service as a civil servant; and
- (b) where in the opinion of the Minister after such consultation the said rights were substantially inferior in value to those benefits, be reduced by such proportion as appears to the Minister to be just, having regard to the value of the said rights, and the remainder treated as service as a civil servant:

Provided that—

- (i) where the period treated as service as a civil servant under this paragraph is less than one-half of the period of his former employment (and for the purpose of this proviso, if the period of his former employment was not an exact number of years,

any part of a year which is less than six months shall be ignored and any part which is six months or more shall be treated as one year, and, if the period of his former employment exceeded twenty years, it shall be treated as being twenty years), the person may in manner provided by paragraph (2) of the last preceding rule pay into the Exchequer a sum equal to two per cent. of his former emoluments multiplied by the number of years by which the period so treated as service as a civil servant falls short of one-half of the period of his former employment, and in that event the said number of years shall be added to the period treated as service as a civil servant;

- (ii) where the aggregate of the period treated as service as a civil servant in a case to which sub-paragraph (b) of this paragraph applies (including any years added in accordance with the immediately preceding provision of this proviso) and of his actual period of service as a civil servant is less than the minimum period of service required by the Superannuation Acts for the payment of an allowance or gratuity, but the said aggregate period would, but for the reduction made in accordance with the sub-paragraph (b), have been sufficient for an allowance or gratuity to be granted, such allowance or gratuity may be granted as though the said aggregate period had been equal to that minimum period, so, however, that its amount shall be reduced by a proportion equal to the proportion which the number of years by which the said aggregate period falls short of the minimum period bears to the number of year in the minimum period.

(3) Where it appears to the Minister—

- (a) that the benefits conferred by a pension scheme are of a value or kind commonly provided by a friendly society or savings bank and do not make adequate provision for retirement; and
- (b) that the contributions deducted from the salaries of those having rights in that scheme are less than two and one-half per cent. of such salaries;

he may direct that rights in that pension scheme shall be disregarded for the purposes of these Rules.

(4) If—

- (a) any person to whom paragraph (1) of this rule applies has, before these Rules come into operation or before he becomes a civil servant (whichever is the later), ceased to have the pension rights to in that paragraph; or
- (b) any such pension rights have, in connection with any provision made by the Act or by the National Insurance Act, or in anticipation of the making of any such provision, been created otherwise than in the ordinary course; or
- (c) there has been default in making any transfer in whole or part of any pension fund or assets held for the purpose of the pension scheme in accordance with Part IV of these Rules;

the rights conferred by these Rules may be so modified or extinguished as may appear to the Minister to be appropriate, and the Minister may, in particular, in the case of a person to whom sub-paragraph (a) of this paragraph applies, require the payment into the Exchequer by that person of the amount of any payment received by him in respect of his pension rights.

(5) If a person to whom paragraph (1) of this rule applies (not being a person who under the pension scheme associated with his former employment was entitled, without the consent of his employer in that employment or of any other person, to retire with a pension at the age of sixty or any earlier age) retires from the Civil Service at his own request before he attains the age at which he was, under that scheme, entitled without such consent to retire with a pension, or the age of sixty-five, if that is earlier, the Minister may direct that the reckoning of the period of his former employment for the purposes of the Superannuation Acts in accordance with these Rules shall be subject to such adjustment as he may, with the consent of the Treasury, determine.

### **Pension rights secured under policies of insurance**

6. Where, in the case of a person to whom Rule 2 applies who at any time on or after the 1st January, 1946, had pension rights in a pension scheme associated with his former employment, those pension rights are secured under a policy of insurance, then, if that person, not later than the 31st March, 1949 (or such later date as the Minister may in his discretion allow in a particular case) gives notice in writing to the Minister, in a form approved by the Minister for the purpose, that he elects to continue to be subject to that policy, he shall continue to be so subject, and the Minister shall have power to pay the premiums authorised or required under the policy to be paid by that person's employer in respect of him, and in that event neither the period of his former employment nor any period in respect of which the Minister so pays premiums shall be taken into account for the purposes of the Superannuation Acts:

Provided that if in the opinion of the Minister the cost in any particular case would be unreasonably high in relation either to the benefits secured or to the cost of the provision which would be made for the person under these Rules but for his election, or if in the opinion of the Minister the benefits secured by way of superannuation would be inadequate, he may within six months of receiving the notice of election give notice in writing to the person that he declines to allow him so to elect, and in that event the person shall be treated as if this rule had never applied in his case.

### **Payments to civil servant in respect of accrued rights**

7.—(1) Where, in the case of a person to whom Rule 5 applies (but who has not elected to continue to be subject to a policy under Rule 6 or whose election has been declined by the Minister), his accrued rights under the pension scheme associated with his former employment in relation to any contingency which has occurred are greater than the allowance or gratuity paid to or in respect of him under the Superannuation Acts in relation to that contingency (or there are such accrued rights but no such allowance or gratuity is paid), the Treasury may make payments to or in respect of him equal to the value of those accrued rights less the amount of any allowance or gratuity paid in relation to that contingency.

(2) Where any payment is made by the Treasury under the foregoing paragraph to or in respect of any such person, and that person continues to be employed as a civil servant after such payment, the rights conferred on that person by Rule 5 may be so modified or extinguished as the Minister, with the consent of the Treasury, may determine to be appropriate.

(3) Any such payments shall be made to the person or persons who would, but for these Rules or the passing of the National Insurance Act, have had the right to payment under the pension scheme concerned.

(4) Where this rule would require the deduction of a lump sum from a periodical payment or of a periodical payment from a lump sum, the Minister shall, with the consent of the Treasury and after consultation with the Government Actuary, determine what adjustment is proper to be made.

(5) The accrued rights in any case shall be ascertained for the purpose of this rule in accordance with the provisions of the Second Schedule to these Rules.

(6) Notwithstanding the foregoing provisions of this rule, no payment shall be made in respect of a contingency occurring not later than the appointed day and giving a right to the return of contributions unless the person concerned gives notice in writing to the Minister not later than the 5th July, 1949, that he desires such payment to be made.

(7) If payment in respect of such a contingency as is mentioned in the last preceding paragraph is duly made, no further payment in respect of accrued rights shall thereafter be made to or in respect of that person under these Rules and no increase in the length of his service shall be made hereunder for any purpose of the Superannuation Acts.

(8) No payment of a lump sum shall be made under this rule in respect of accrued rights to a periodical payment:

Provided that, in the case of a person who ceases to be employed as a civil servant, the Treasury may, where the capital value of the accrued rights when added to the capital value of any compensation due to that person under Section 67 of the National Insurance Act (which section relates to compensation for displaced employees) does not exceed two hundred and fifty pounds, make a lump sum payment equal to the capital value of the accrued rights.

### **Option to civil servant to have modified conditions applied to payments under Superannuation Acts**

8.—(1) Where, in the case of a person to whom Rule 5 applies (but who has not elected to continue to be subject to a policy under Rule 6 or whose election has been declined by the Minister), a contingency arises, or may arise, in relation to which an allowance or gratuity may be paid to or in respect of him under the Superannuation Acts, he may, either before or after the arising of the contingency, but not later than six weeks after it has arisen, give notice in writing to the Minister that he elects that the provisions of the next following paragraph shall apply in relation to that contingency:

Provided that, if the person is unavoidably prevented from giving such notice before the expiration of the said six weeks, the Minister may in his discretion extend the period for giving such notice.

(2) Where such a notice has been received by the Minister, such portion of the said allowance or gratuity as the Minister, with the consent of the Treasury, may determine to be attributable to the period of his former employment (but no other portion thereof) shall, notwithstanding anything in the Superannuation Acts, be subject to the like conditions as were applicable under the pension scheme associated with his former employment as to payment, allocation or otherwise, but with such modifications as the Minister, with the consent of the Treasury, may determine to be necessary to adapt those conditions to payment under those Acts.

### **Persons entitled to a pension before the age of sixty**

9.—(1) In the case of a person to whom Rule 5 would apply but for the provisions of this rule, where under the pension scheme associated with his former employment he was entitled to retire at an earlier age than the age of sixty, and received a pension other than a return of contributions on such retirement, then, if he becomes a civil servant while under that age, the period of his former employment shall not be taken into account for the purposes of the Superannuation Acts:

Provided that, if his actual period of service as a civil servant is less than the minimum period of service required by the Superannuation Acts for the payment of an allowance or gratuity, but the said period would, but for this rule, have been sufficient, when added to the period treated as service as a civil servant in accordance with Rule 5, for an allowance or gratuity to be granted, such allowance or gratuity may be granted as though his period of service had been equal to that minimum period, so, however, that its amount shall be reduced by a proportion equal to the proportion which the number of years by which the actual period falls short of the minimum period bears to the number of years in the minimum period.

(2) A person to whom this rule applies shall not be entitled to any payment in respect of accrued rights under Rule 7, and the pension (including any right to payments after his death) to which he became so entitled shall remain a liability under the pension scheme and, in the case of a scheme to which Rule 12 applies, be transferred to the Minister under that rule, but except for that pension the trustees and managers of that scheme and any other persons having or having had custody or control of the assets (including, in the case of a scheme to which Rule 12 applies, the Minister) shall be under no liability to him in respect of pension rights arising from his former employment.

## PART III

### DISCHARGED EMPLOYEES

#### **Discharged employees who do not become civil servants**

**10.**—(1) The following provisions of this rule apply to persons in respect of whom the following conditions are fulfilled (hereafter in these Rules called “discharged employees”) that is to say—

- (a) that they have been employed full time by any such Society or body as is mentioned in Rule 2;
- (b) that they have lost that employment;
- (c) that the loss of employment is directly attributable to the passing of the National Insurance Act or the making of any regulations thereunder;
- (d) that they are not, or do not, before the 5th July, 1949, become, civil servants; and
- (e) that they have pension rights under any pension scheme or are interested in any pension fund under which scheme or in which fund other persons to whom Rule 2 applies have such rights or interest.

(2) Where in the case of a discharged employee there are accrued rights in relation to any contingency which has occurred, and either—

- (a) the employment which he lost was such as to satisfy the conditions in Rule 3; or
- (b) he is entitled to receive compensation for that loss of employment under Section 67 of the National Insurance Act; or
- (c) the pension scheme or fund in relation to which he satisfies the condition in subparagraph (e) of the last preceding paragraph is a fund wholly transferred by Rule 12;

the Treasury may make payments to or in respect of him equal to the value of those accrued rights.

(3) Any such payment shall be made to the person or persons who would, but for these Rules or the passing of the National Insurance Act, have had the right to payment under the pension scheme concerned.

(4) Notwithstanding the foregoing provisions of this rule, no payment shall be made in respect of a contingency occurring not later than the appointed day and giving a right to the return of contributions unless the person concerned gives notice in writing to the Minister not later than the 5th July, 1949, that he desires such payment to be made.

(5) If payment in respect of such a contingency as is mentioned in the last preceding paragraph is duly made, no further payment in respect of accrued rights shall thereafter be made to or in respect of that person under these Rules.

(6) No payment of a lump sum shall be made under this rule in respect of accrued rights to a periodical payment:

Provided that where the capital value of the accrued rights, when added to the capital value of any compensation due to the discharged employee under Section 67 of the National Insurance Act does not exceed two hundred and fifty pounds, the Treasury may make a lump sum payment equal to the capital value of the accrued rights.

(7) The accrued rights in any case shall, subject to the provisions of the next following paragraph, be ascertained for the purpose of this rule in accordance with the provisions of the Second Schedule to these Rules.

(8) If under any regulations made under Section 67 of the National Insurance Act the Minister has power for the purpose of assessing compensation under those regulations to credit a discharged employee with additional years of service, then, in determining accrued rights under these Rules



upon the death of such employee to whom additional years of service may be so credited, the Minister may direct that the like number of years shall be added for the purpose of paragraph 3 of the Second Schedule to these Rules to that part of the period of that discharged employee's former employment which was pensionable employment.

(9) Any payments authorised by these Rules in respect of the pension rights of discharged employees shall be made out of moneys provided by Parliament.

## PART IV SCHEMES AND FUNDS

### Affected schemes and funds

11.—(1) The provisions of this Part of these Rules apply to—

- (a) any pension scheme under which any person to whom Rule 2 or Rule 10 applies has pension rights; and
- (b) any pension fund held for the purposes of any such scheme.

(2) In this and the next succeeding Part of these Rules—

- “affected scheme” means a pension scheme to which the provisions of this Part apply;
- “affected fund” means a pension fund to which the provisions of this Part apply;
- “affected person” means a person to whom Rule 2 or Rule 10 applies;
- “pensioner” means a person to whom a pension is payable under an affected scheme or out of an affected fund in respect of a period which includes the appointed day.

### Funds and assets wholly transferred

12. Subject to the provisions of Rule 15, where on the 25th June, 1948, the persons interested in an affected fund or having pension rights under an affected scheme included no persons who were not affected persons or pensioners or other persons who before that date were employed either—

- (a) by an Approved Society (including any branch thereof) transacting only health insurance business, or any separate section established for the purposes of the Health Insurance Act; or
- (b) by a body administering a special scheme under Section 73 of the Unemployment Insurance Act;

the whole of that fund or of the assets of that scheme shall, as at the appointed day, by virtue of these Rules—

- (i) in so far as such fund or assets consist of annuities, bills, stocks, shares, debentures, bonds, loans and other securities (except any policy of insurance, securing pension rights and any security, not being a debenture, by way of a charge or mortgage of land) be transferred to the National Debt Commissioners; and
- (ii) in so far as such fund or assets consist of any property which is not, in accordance with the foregoing provisions of this rule, transferred to the National Debt Commissioners, be transferred to the Minister;

and any liabilities under that scheme shall as at that day be transferred to the Minister.

### **Funds and assets partly transferred**

13.—(1) Where, on the 25th June, 1948, the persons interested in an affected fund or having pension rights under an affected scheme included one or more persons who were neither affected persons nor pensioners nor such other persons as are mentioned in Rule 12, there shall, subject to the provisions of Rule 15, be transferred, as at the appointed day, such part of that fund or of the assets held for the purposes of that scheme as the Minister, after consultation with the Government Actuary, shall determine to be proper in respect of affected persons:

Provided that the Minister may after such consultation make further determinations under this rule in respect of affected persons not taken into account at the first determination, and transfers of further parts of the fund or assets shall be made accordingly.

- (2) Any part of a fund or assets transferred in accordance with this rule shall—
- (a) in so far as such part consists of annuities, bills, stocks, shares, debentures, bonds, loans and other securities (except any policy of insurance securing pension rights and any security, not being a debenture, by way of a charge or mortgage of land) be transferred to the National Debt Commissioners; and
  - (b) in so far as such part consists of any property which is not, in accordance with the foregoing provisions of this rule, transferred to the National Debt Commissioners, be transferred to the Minister.
- (3) In the case of a fund or scheme to which the provisions of this rule apply, the following provisions shall apply during any period before the making of the first determination of the Minister in relation thereto:—
- (a) No dissolution of the fund or distribution of the assets of the scheme and no surrender or disposal of a policy of insurance whereby the pension rights of affected persons thereunder are secured shall be made without the consent of the Minister in writing, and no payments shall, without such consent, be made to affected persons in respect of their interest in, or rights under, the fund or scheme.
  - (b) The Minister may, in giving such consent, state in writing any conditions subject to which it is given, and the dissolution, distribution, surrender, disposal or payment shall, as regards the interest or pension rights of affected persons, be subject to those conditions.
  - (c) Nothing in the foregoing provisions of this paragraph shall prevent the payment to pensioners of any payment payable to them in respect of retirement or incapacity.

### **Persons who have lost their interest or rights since 1st January, 1946**

14. Where, at any time on or after the 1st January, 1946, an affected person was interested in an affected fund or had pension rights under an affected scheme, but such interest or rights have been determined before these Rules come into operation (or, in the case of a civil servant, before he becomes a civil servant, if that is later) by the payment to him of a sum in respect of such interest or rights, the Minister, with the consent of the Treasury, may, as a condition of applying to his case any provision of these Rules providing for payments by the Treasury in respect of accrued rights, require—

- (a) the payment into the Exchequer by that person of the sum so received by him; and
- (b) the transfer under Rule 13 of the amount which, in the opinion of the Minister after consultation with the Government Actuary, would, apart from this rule, have been required to be so transferred in respect of that affected person but for the payment so made to him, less the amount of that payment;

and in default of such payment or transfer any payments by the Treasury in respect of accrued rights may be so modified or extinguished as the Minister, with the consent of the Treasury, may determine to be appropriate.

### **Transfer of funds, assets and liabilities, etc**

**15.**—(1) In relation to affected persons, the liabilities of an affected fund, or under an affected scheme, shall, subject to the provisions of Rules 7, 9 and 10, be extinguished.

(2) The transfers made under Rules 12 and 13 shall be subject to the further provisions contained in the Third Schedule to these Rules.

(3) In the case of a fund or scheme to which Rule 12 applies, the Minister shall make such arrangements as appear to him to be requisite for securing the payment of the liabilities under the scheme to pensioners and such other persons as are mentioned in Rule 12 or to other persons in respect of them after their death and shall, in particular, make provision for the payment of pensions due to be paid out of the fund or assets at the next date of payment after the appointed day, so, however, that such arrangements shall not, by reason of any alteration in the method or source of payment or otherwise, in any way modify the pension rights of any of those persons and shall not, in particular, be deemed to convert any pension payable to those persons into a pension payable under the Superannuation Acts:

Provided that in any case in which, in connection with any provision made by the Act or by the National Insurance Act, or in anticipation of the making of any such provision, pension rights have been created otherwise than in the ordinary course, such adjustments shall be made in the calculation of the liabilities resulting from such creation as may appear to the Minister to be appropriate.

(4) The provisions of the Fourth Schedule to these Rules shall apply to the arrangements made in accordance with the last preceding paragraph.

### **Payment of transfer values**

**16.** Notwithstanding anything in these Rules, in the case of a discharged employee in respect of whom the following conditions are fulfilled, that is to say:—

- (a) such transfer of a fund or assets and such payment (if any) into the Exchequer has been made as is required in his case by this Part of these Rules;
- (b) he has entered, or intends to enter, employment with which a pension scheme (in this paragraph called “the new pension scheme”) is associated, or in connection with which his employer intends to make provision for the payment to him of a pension, and he has shown to the satisfaction of the Minister that upon the payment to the trustees or managers of the new pension scheme, or to his employer, of such transfer value as is provided by this rule he will, either under the rules of the new pension scheme or under an undertaking entered into by his employer, have pension rights in respect of the whole or part of his former employment;
- (c) he has made a request to the Minister in writing for the payment of such transfer value, and has undertaken in such request to accept the making of such payment in full satisfaction of all claims he may have upon the Minister in respect of his pension rights; and
- (d) the Minister sees no reason why the payment of such transfer value should not be made;

the Treasury shall pay to the trustees or managers of the new pension scheme, or to his employer, a transfer value in respect of his accrued rights as certified by the Government Actuary, and after such transfer value has been paid no further payment in respect of accrued rights shall be made to or in respect of the discharged employee under these Rules.

### **Policies of insurance**

**17.**—(1) Any policies of insurance under which the pension rights of affected persons are secured shall be included in the assets to which Rules 12 and 13 apply.

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(2) In the case of policies transferred to him, the Minister may, from such date as he shall determine—

- (a) assume all or any of the rights in relation to such policies of the employers of the affected persons or of the trustees or managers of the affected funds or schemes;
- (b) continue the policies in force in cases to which Rule 6 applies;
- (c) require the issue of paid-up policies in respect of the premiums already paid;
- (d) (with the consent of the persons granting the policies) transfer them to other persons, including, if he deems it appropriate, the persons having pension rights thereunder.

(3) The persons granting such policies shall do all things necessary to enable these Rules to be complied with, and shall in particular issue any new policies that may be required:

Provided that—

- (a) the stamp duty on any new policies issued in substitution for existing policies shall be borne by the Minister; and
- (b) the said persons shall, in cases where new policies are required under an affected scheme in order to provide increased benefits, have the right in accordance with the terms of the scheme to decline, on health grounds, to grant an assurance or to require an increased premium.

(4) Where a policy of insurance is transferred under paragraph (2) of this rule to a person having pension rights under that policy, he shall be deemed to have received all payments due or to become due to him under these Rules in respect of his accrued rights.

#### **Modification of trust deeds, etc**

**18.** Nothing in any statutory provision relating to an affected fund or scheme, or in any trust deed, rules or other instrument made for the purposes thereof shall authorise anything that is contrary to these Rules.

#### **Furnishing of information and records**

**19.** Every employer or past employer of an affected person, and every trustee or manager of an affected fund or scheme, and the servants or agents of any such employer, trustee or manager, and every affected person—

- (a) shall furnish to the Treasury, the Minister, the Government Actuary, the tribunal or any officer of any of them all such information and produce for inspection all such documents as may reasonably be required for the purpose of ascertaining the service and pension rights of an affected person, and the nature, extent and location of funds and assets (and liabilities attaching thereto) to be transferred under these Rules; and
- (b) in the case of a transfer under Rule 12 shall (unless excused by the Minister from so doing) hand over, and in the case of a transfer under Rule 13 shall (unless so excused) either hand over, or furnish certified copies of, all books, records, papers and documents appertaining to the scheme or fund.

#### **Revocation of National Insurance and Civil Service (Superannuation) (Schemes and Funds) Rules, 1948**

**20.** The National Insurance and Civil Service (Superannuation) (Schemes and Funds) Rules, 1948, are hereby revoked, but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred thereunder, so, however, that any transfer of a pension fund or of the assets held for the purposes of a pension scheme made by virtue thereof shall be treated as if it were a transfer made under Rule 12.

## PART V

### CLAIMS, QUESTIONS AND APPEALS

#### Notice of claim

**21.** Any person who claims to be entitled:—

- (a) to be a discharged employee for the purposes of Rule 10 by reason of having suffered a loss of employment which is directly attributable to the passing of the National Insurance Act or the making of any regulations thereunder; or
- (b) to have, either immediately or upon the happening of some future contingency, accrued rights for the purposes of Rule 7 or Rule 10;

and who has not, before the 31st December, 1949, been notified in writing of a decision of the Minister as to whether or not he is such a person or possesses such rights, shall, not later than the 5th July, 1950, give notice of his claim to the Minister in a form approved by him for the purpose:

Provided that—

- (a) any claim to compensation made in accordance with regulations under Section 67 of the National Insurance Act shall be deemed to be a notice under this rule; and
- (b) the Minister may in his discretion in any particular case extend the time for giving such notice.

#### Determination of questions and appeals

**22.**—(1) Subject to the provisions of this Part of these Rules, any question arising under these Rules shall be decided by the Minister.

(2) A claimant may, if he is dissatisfied with a decision by the Minister on any of the following matters, that is to say:—

- (a) whether a loss of employment is directly attributable to the passing of the National Insurance Act or the making of any regulations thereunder; or
- (b) the existence, nature or amount of accrued rights; or
- (c) the existence of a reasonable expectation of receiving a pension, or the nature or amount of such pension or of any special award in respect thereof;

within three months after the date on which he was notified of the decision, require the matter to be referred to the tribunal, and the matter shall be referred accordingly.

(3) The Minister, when notifying any decision in respect of any of the matters referred to in paragraph (2) of this rule to the claimant, shall inform him in writing of his right to require the matter to be referred to the tribunal.

(4) The tribunal shall consider any matter so referred in accordance with the provisions of these Rules, and shall determine whether the decision of the Minister shall be confirmed, reversed or varied, and the Minister shall give effect to the determination of the tribunal.

(5) Nothing in these Rules shall affect the discretion of the Treasury in making awards under the Superannuation Acts.

## PART VI

### MISCELLANEOUS

#### Persons having an expectation of a pension

23.—(1) Where in the case of any person—

- (a) that person has enjoyed since not later than the 1st January, 1946, by customary practice or otherwise, a reasonable expectation of receiving a pension on retiring from his former employment (whether or not accompanied by a reasonable expectation of some payment by way of pension to him in the event of retirement through ill-health or incapacity or in respect of him upon his death); and
- (b) the arrangements for the payment of such pension (hereafter in this rule called “the said pension”), whether subsisting by virtue of Act of Parliament, trust, contract or otherwise, do not comply with the requirements of paragraph (3) of Rule 1, but that person would, but for that paragraph, be a person to whom Rule 7 or Rule 10 would apply; and
- (c) he has applied to the Minister not later than the 31st March, 1949 (or such later date as the Minister may for special reasons allow in a particular case) for the grant of a special award under this rule, and has proved his enjoyment of that expectation to the satisfaction of the Minister within a reasonable time thereafter;

the Minister, with the consent of the Treasury, may grant a special award under this rule equal to such proportion of the said pension as he considers equitable having regard to that person's age, the length of the period of his former employment, the provisions of these rules governing the ascertainment of accrued rights which would have applied in his case if the said pension had been payable under a pension scheme complying with the requirements of paragraph (3) of Rule 1 and not being a scheme to which paragraphs 4 and 5 of the Second Schedule to these Rules apply, and all other circumstances of his case.

(2) Any such award shall specify the contingency or contingencies on the happening of which payment under the award is to be made and the Treasury may, on the happening of any such contingency, make payments to or in respect of that person in accordance with the award, and for the purpose of this rule the provisions of paragraph 1 of the Second Schedule to these Rules shall apply to any contingency as though it were a contingency giving rise to accrued rights in the case of a person to whom Rule 7 or rule 10 applied:

Provided that the said payments may be reduced or extinguished as the Minister, with the consent of the Treasury, may determine to be appropriate having regard to any gratuity or allowance payable to the person under the Superannuation Acts and to any payments received or to be received by him from his employer in the former employment.

#### Exclusion of supplemental funds, etc

24. Where, under any trust deed, rules or other instrument made for the purposes of any affected fund or scheme, provision is made for the voluntary payment by persons interested therein or having pension rights thereunder of contributions additional to those required by such trust deed, rules or other instrument, and those additional contributions are paid into a separate fund or account (hereinafter called “a supplemental fund”) into which no contributions are paid by the employers of those persons and out of which increased or additional benefits by way of pension are payable—

- (a) neither Part IV of these Rules nor Rule 25 shall apply to a supplemental fund;
- (b) pension rights in a supplemental fund shall not be taken into account in determining accrued rights for any purpose of these Rules; and

- (c) the payment of contributions into a supplemental fund in respect of any period of former employment shall not constitute that period a period of pensionable employment.

### **Transfers to the Ministry of Finance for Northern Ireland**

**25.—(1)** Where on the appointed day the persons interested in an affected fund or having rights under an affected scheme included one or more persons (hereinafter called “Northern Ireland employees”) in respect of whom the following conditions are fulfilled, that is to say:—

- (a) that they have been employed full time by any such Society or body as is mentioned in Rule 2 or by a body administering a special scheme under Section 77 of the Unemployment Insurance Act (Northern Ireland), 1936 (which section relates to special schemes);
- (b) that they have lost that employment; and
- (c) that either—
  - (i) they are entitled to receive compensation for that loss of employment under Section 64 of the National Insurance Act (Northern Ireland), 1946 (which section relates to compensation for displaced employees); or
  - (ii) that it is certified by the Ministry of Finance for Northern Ireland that they are persons towards whom the liabilities of that fund or under that scheme have been or will be assumed by a Government department for Northern Ireland;

there shall be transferred to the Ministry of Finance for Northern Ireland such part of that fund or of the assets held for the purposes of that scheme as the Minister, after consultation with that Ministry, shall determine to be proper in respect of Northern Ireland employees:

Provided that—

- (a) the Minister may, after such consultation, make further determinations under this rule in respect of Northern Ireland employees not taken into account at the first determination, and transfers of further parts of the fund or assets shall be made accordingly;
- (b) where anything that is to be transferred under this rule has already been transferred under Part IV of these Rules, it shall be transferred by the transferee to the said Ministry in accordance with this rule.

(2) In relation to Northern Ireland employees, the liabilities of an affected fund, or under an affected scheme, shall, subject to any obligations of any Government department for Northern Ireland (and, if they are affected persons, to the provisions of Rules 7, 9 and 10), be extinguished.

(3) In the case of Northern Ireland employees who are also affected persons, any transfers to be made under this rule or under Rule 13 shall be so adjusted as may appear to the Minister, after such consultation as aforesaid, to be appropriate, having regard to the liabilities undertaken in Great Britain and Northern Ireland respectively towards those persons.

Dated this 10th day of November, 1948.

*Fames Griffiths*  
Minister of National Insurance

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We consent.

*R. F. Taylor*  
*Foseph Henderson*  
Two of the Lords Commissioners of His  
Majesty's Treasury