

1968 No. 1363

PENSIONS

**The Superannuation (Judicial Offices)
Rules 1968**

Made - - - - 22nd August 1968

Laid before Parliament 29th August 1968

Coming into Operation 30th August 1968

The Treasury, in exercise of the powers conferred on them by section 38 of the Superannuation Act 1965(a), and of all other powers enabling them in that behalf, hereby make the following Rules:—

Superannuation benefits for persons who have served in more than one judicial office

1.—(1) Where—

- (a) a person has been continuously employed in two or more judicial offices; and
- (b) he retires from, or dies while still serving in, the last of those offices in such circumstances that superannuation benefits are payable to or in respect of him under the enactments relating to such last office, or would be so payable if he had served in such office for the minimum qualifying period required by those enactments; and
- (c) he elects, or, if he has died, his personal representatives elect, that these Rules shall apply in relation to him,

then, subject to the provisions of these Rules, there may be paid to or in respect of him the superannuation benefits specified in Rule 2 of these Rules.

(2) Where a person is employed continuously in two or more judicial offices service in which may be aggregated for the purposes of the pension enactments relating to the last of them, he shall be deemed for the purposes of these Rules to have been employed solely in the last of those offices during the whole of the period of his service in those offices.

(3) For the purposes of these Rules, a person shall be deemed to have been continuously employed in two judicial offices, notwithstanding that he has not transferred directly from the first office to the second, if he became employed in the second office within 31 days of ceasing to be employed in the first or within such longer period as the Treasury may allow in any particular case.

(4) These Rules shall not apply in relation to a person—

- (a) by or in respect of whom an election is made under section 4 of the Judicial Pensions Act 1959(a) (which contains special provisions as to holders of certain high judicial offices who are former holders of other judicial offices); or
- (b) who retires from a judicial office having become eligible for superannuation benefits by virtue of a provision of any enactment under which the holder of a judicial office who is required to vacate his office at a time related to the attainment of a particular age becomes eligible for superannuation benefits if he retires before attaining that age otherwise than on grounds of ill-health.

(5) An election under this Rule shall be made within the period of three months beginning with the retirement or death, as the case may be, of the person by or in respect of whom it is made, and shall be made in writing addressed to the Treasury.

Amount of benefits

2.—(1) Where a person by or in respect of whom an election is made under Rule 1 of these Rules has served continuously in not more than two judicial offices, the benefits payable to or in respect of him shall—

- (a) if at the time of his retirement or death the salary of the second of those offices is not less than the salary of the first, be equal to the benefits which would have been payable to or in respect of him under the enactments relating to the first office if he had continued to serve in that office until his retirement or death at the salary then payable to a holder of that office; or
- (b) if at the time of his retirement or death the salary of the second of those offices is less than the salary of the first, be equal to whichever are the more favourable of the following:—
 - (i) the benefits which would have been payable to or in respect of him under the enactments relating to the second office if his service in the first office had been service in the second office, or
 - (ii) the benefits which would have been payable to or in respect of him under the enactments relating to the first office if he had retired from that office on grounds of ill-health on the date when he ceased to hold that office.

(2) Where a person by or in respect of whom an election is made under Rule 1 of these Rules has served continuously in not less than three judicial offices, the benefits payable to or in respect of him shall be equal to whichever are the most favourable of the following:—

- (a) the benefits which would have been payable to or in respect of him under paragraph (1) of this Rule if the first of his last three judicial offices were the first office referred to in that paragraph, his service in the second of those offices were service in the third of those offices, and the third of those offices were the second office referred to in that paragraph;
- (b) the benefits which would have been payable to or in respect of him under paragraph (1) of this Rule if his service in only the last two of his judicial offices were taken into account; or

(c) the benefits which would have been payable to or in respect of him under paragraph (1) of this Rule if his service in only the first two of his last three judicial offices were taken into account.

(3) Where a judicial office in which a person has been employed ceases to exist before the time of his retirement or death, then, for the purpose of calculating the amount of the benefits payable to or in respect of him under this Rule, the salary of that office shall be taken to be such amount as the Treasury may determine to be the salary which would have been payable in respect of that office if it had continued to exist at the time of his retirement or death.

(4) Where a person has been employed in a judicial office in such circumstances that, if he had retired from that office, a person other than the Crown would have been liable under any enactment to contribute to any pension or other benefit payable in respect of his service in that office, the length of any period of his service which would, apart from this paragraph, include the period of his service in that office shall, for the purpose of calculating the amount of any benefits for the purposes of this Rule, be reduced by the length of the period of his service in that office.

(5) Where a person has been employed in a judicial office in such circumstances that, if he had retired from that office, a person other than the Crown would have been liable under any enactment, by reason of his having previously been employed in another office, to contribute to any pension or other benefit for which he would have been eligible on his retirement from the judicial office, the length of any period of his service which would, apart from this paragraph, include the period of his service in that other office shall, for the purpose of calculating the amount of any benefits for the purposes of this Rule, be reduced by the length of the period of his service in that other office.

(6) Where any benefits are paid under these Rules in respect of a person's service in a judicial office, no superannuation benefit shall be paid in respect of that service under the enactments relating to that office.

Exception from the application of the Rules

3. If the application of these Rules would put a particular individual in a position less advantageous than that in which he would have been if the Rules did not apply in relation to him they shall not be so applied.

Interpretation

4.—(1) In these Rules, unless the context otherwise requires, the expression "judicial office" means any of the offices listed, or treated by virtue of any enactment as listed, in Schedule 1 to the Administration of Justice (Pensions) Act 1950(a), but does not, in relation to any person, include any such office if the Superannuation Act 1965 applies to him in respect of his service in that office.

(2) Any reference in these Rules to the provisions of any enactment shall be construed, unless the context otherwise requires, as a reference to those provisions as amended or re-enacted by any subsequent enactment.

(3) The Interpretation Act 1889(b) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

(a) 1950 c. 11 (14 & 15 Geo. 6).

(b) 1889 c. 63.

Citation and commencement

5. These Rules may be cited as the Superannuation (Judicial Offices) Rules 1968, and shall come into operation on 30th August 1968.

E. Alan Fitch,

B. K. O'Malley,

Two of the Lords Commissioners
of Her Majesty's Treasury.

22nd August 1968.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules provide for the pension payable to or in respect of a person who has served in two or more judicial offices to be based on his aggregate service in those offices instead of on his service only in the last office held by him.

Where it is desired that the Rules shall apply, the person concerned or, if he has died, his personal representatives must make an election within three months of his retirement or death.

When such an election is made in respect of a person who has served in two judicial offices, the Rules provide for the pension to be calculated normally by reference to his aggregate service in those offices and the salary and pension scale of the first of the two offices. Where, however, the salary of the second office is less than that of the first, the pension will be calculated by whichever is the more favourable of the following methods:—

- (a) by reference to his aggregate service in both offices and the salary and pension scale of the second office, or
- (b) by reference to his service in the first office only and the salary and pension scale of the first office.