
 STATUTORY INSTRUMENTS

1987 No. 376

PENSIONS

The Superannuation (Judicial Offices) (Aggregation of Service) Rules 1987

<i>Made</i> - - - - -	<i>9th March 1987</i>
<i>Laid before Parliament</i>	<i>11th March 1987</i>
<i>Coming into force</i>	<i>1st April 1987</i>

The Treasury, in exercise of the powers conferred by section 38 of the Superannuation Act 1965(a) and now re-vested in them by the Minister for the Civil Service Order 1968(b) and the Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981(c), and the Lord Chancellor, in exercise of the powers conferred on him by section 39A of that Act(d) and with the consent of the Treasury(e), hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Superannuation (Judicial Offices) (Aggregation of Service) Rules 1987 and shall come into force on 1st April 1987.

Interpretation

2. In these Rules, unless the context otherwise requires—

“office-holder” means a person who holds or has held a judicial office;

“judicial office” means an office specified in section 16 of, or Schedule 1 to, the Judicial Pensions Act 1981(f) (including a City of London Office) or a Northern Irish Office, but does not, in relation to any office-holder include any such office if benefits under the principal civil service pension scheme are payable in respect of his service in that office;

“City of London Office” means the office of Recorder of London (if appointed to exercise judicial functions in pursuance of paragraph 2 of Part I of Schedule 2 to the Courts Act 1971(g)), Common Serjeant, or Additional Judge of the Central Criminal Court;

“final office” means, in relation to an office-holder, the last judicial office from which he retires or the judicial office in which he dies.

“Northern Irish Office” means the office of county court judge or resident magistrate in Northern Ireland.

(a) 1965 c.74.

(b) S.I. 1968/1656.

(c) S.I. 1981/1670.

(d) Inserted by section 30 of the Administration of Justice Act 1969 (c.58) and amended by paragraph 2 of Schedule 3 to the Judicial Pensions Act 1981 (c.20).

(e) Substituted for the Minister for the Civil Service by S.I. 1981/1670.

(f) 1981 c.20, amended by section 152(1) of, and Schedule 5 to, the Supreme Court Act 1981 (c.54).

(g) 1971 c.23.

Application of Rules

3.—(1) Subject to paragraphs (2) and (3) below, these Rules apply to an office-holder who has served continuously in two or more judicial offices, if—

- (a) superannuation benefits are payable to or in respect of him under enactments relating to his final office; and
- (b) he elects (or, if he has died either in office or within three months of retirement without, in either case, having made an election, his personal representatives elect) that these Rules shall apply in relation to him.

(2) These Rules do not apply to an office-holder—

- (a) whose service in his final office came to an end before 1st April 1987; or
- (b) who, being subject to a compulsory retiring age in respect of his final office, retires from that office (otherwise than on the grounds of ill-health) before reaching that age.

(3) These Rules do not affect the operation of any enactment by virtue of which service in successive judicial offices is treated, for the purpose of entitlement to superannuation benefits, as service wholly in the last of those offices.

(4) For the purposes of these Rules—

- (a) a City of London Office shall be treated as distinct from the office of Circuit Judge; and
- (b) an office-holder's service in two judicial offices successively shall be treated as continuous if his appointment to the second of those offices took effect within 32 days of his ceasing to hold the first, or within such longer period as the Treasury may, in a particular case, allow.

(5) An election under this rule shall be made in writing addressed to the Treasury within three months of the retirement or death, as the case may be, of the office-holder by, or in respect of, whom it is made, or within such longer period as the Treasury may, in a particular case, allow.

(6) These Rules shall not apply where, in a particular case, their application would put an office-holder (or persons entitled to superannuation benefits in respect of him) in a position less advantageous than that in which he (or they) would otherwise have been.

Amount of benefits

4.—(1) Where a person by or in respect of whom an election is made under rule 3 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 3 has served continuously in not fewer 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) above 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) above 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) above 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 any benefits are paid under these Rules in respect of a person's service in a judicial office, no additional superannuation benefit shall be paid in respect of that service under the enactments relating to that office.

Payment of benefits

5.—(1) Any benefits payable in consequence of an election made under rule 3 shall be paid by the authority liable for payment of benefits in respect of the office-holder's final office, whether or not his service in that office is taken into account under rule 4 for the purpose of calculating the benefits so payable.

(2) Where service in an earlier office has been taken into account for the purpose of calculating the benefits so payable, the authority paying the benefits in accordance with paragraph (1) above shall be entitled to recover from any authority liable for payment of benefits in respect of that earlier office a contribution which bears to the total amount of benefits payable the same proportion as the period of the office-holder's service in the earlier office bears to the total period of service in respect of which benefits are payable.

Revocation of existing rules

6. The rules specified in the Schedule are revoked, but without prejudice to their continued application in relation to an office-holder whose service in his final office has come to an end before 1 April 1987.

Dated 18th February 1987

Hailsham of St. Marylebone, C.

*Michael Neubert
Mark Lennox-Boyd*

Dated 9th March 1987

Two of the Lords Commissioners of Her Majesty's Treasury

Rule 6

SCHEDULE INSTRUMENTS REVOKED

<i>Serial No.</i>	<i>Title of Instrument</i>
1968/1363	The Superannuation (Judicial Offices) Rules 1968.
1968/2071	The Superannuation (Public and Judicial Offices) (Amendment) Rules 1968.
1970/1021	The Superannuation (Judicial Offices) Rules 1970.
1975/1183	The Superannuation (Judicial Offices) (Amendment) Rules 1975.
1979/668	The Superannuation (Judicial Offices) (Amendment) Rules 1979.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules consolidate and supersede the existing rules which provide for a person who has served in more than one judicial office, whether remunerated out of central or local funds, to elect that the whole of his judicial service is, subject to the conditions specified in the rules, to be aggregated for the purpose of determining his superannuation benefits, instead of their being based only on his service in his last office. An election for this purpose has to be made within three months of retirement. In the case of death in office or within three months of retirement, the election may be made by the office-holder's personal representatives and there is a discretion vested in the Treasury to extend the time in a particular case.

Where an election is made, the Rules provide for the benefits to be paid by the authority responsible for the office-holder's last office and for that authority to recover a proportionate contribution from an authority responsible for any former office service in which has (in accordance with the Rules) been taken into account in calculating the total amount of benefits payable.

The Rules apply, as the superseded rules do not, to persons who have served as county court judges or resident magistrates in Northern Ireland; otherwise, they make no change of substance. They do not apply in the case of a person whose relevant service has come to an end before their commencement on 1 April 1987: in that case, the existing rules will continue to apply.