
STATUTORY INSTRUMENTS

1948 No. 2434

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

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.