

FIRST SCHEDULE

Rule 3 (2)

WAR SERVICE

1. Any person who was engaged in war service at any time during the period from the 26th May, 1939, to the relevant date and who, but for his being so engaged, would have been a person in relation to whose employment the conditions in paragraph (1) of Rule 3 would have been satisfied (hereinafter called “an employee on war service”) shall be deemed to satisfy those conditions.

2. A person shall not be treated as satisfying the requirements of the preceding paragraph unless he had a right to (or, under a promise given to him by his employer, a reasonable expectation of) reinstatement in the employment last held by him before his war service, and, in the case of a person who ceases to be engaged in war service on or after the appointed day, he gives notice in writing to the Minister, within a period of two months after he ceases to be so engaged (or within such longer period as the Minister may for special reasons allow in a particular case), that he claims to be an employee on war service for the purpose of these Rules or of regulations made under Section 67 of the National Insurance Act.

3.—(1) An employee on war service who satisfies the requirements of paragraph 1 of this Schedule shall, for the purpose of these Rules, be treated as if he had remained in the employment of his last employer before his war service throughout that service and for any period thereafter during which he would, but for his war service, have been so employed, not being a period during which he was in other employment to which the said conditions in paragraph (1) of Rule 3 apply:

Provided that he shall only be so treated if and to the extent that he was, or would but for the passing of the National Insurance Act have been, so treated by that employer, and he shall not in any case be so treated in respect of any period after the appointed day.

(2) The calculation of the period of his former employment or of his accrued rights and any other calculation required by these Rules in relation to a former employment or to pension rights conferred or preserved by these Rules shall, in the case of such an employee on war service, be made on the basis of the preceding sub-paragraph.

4. For the purpose of these Rules, the expression “war service” means—

- (a) service in any of His Majesty's forces or the nursing and auxiliary services thereof;
- (b) service in the Merchant Navy, including the sea fishing service, the pilotage and light vessel services, or as a salvage worker;
- (c) full time service in the civil defence services (including the National Fire Service), the Royal Observer Corps, the Police War Reserve, the nursing and first aid services, and the Women's Land Army;
- (d) any full time employment into which a person entered by direction of the Minister of Labour and National Service;
- (e) detention by the enemy as a prisoner, military or civil, in any enemy or enemy-occupied country or internment in any enemy or enemy-occupied or neutral country in consequence of the war;
- (f) such other employment as the Minister, with the consent of the Treasury, approves in writing;

such service, employment, detention or internment being on or after the 26th May, 1939, but not including any voluntary extension of war service or voluntary enlistment after the cessation of hostilities otherwise than with the consent of the employer in whose service the person was, both at the time of the consent and immediately before the commencement of his war service.

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SECOND SCHEDULE

Rules 7 and 10

ACCRUED RIGHTS

1. The following provisions of this Schedule shall apply to the ascertainment of accrued rights upon the happening of a contingency in the case of a person who, on the 1st January, 1946, or at any time thereafter, had pension rights in a pension scheme associated with his former employment, and for this purpose the expression “contingency” shall be construed as meaning retirement from his former employment or any other contingency upon the happening of which any payment by way of pension is due under that pension scheme, so, however, that, subject to the said provisions—

- (a) in the case of a person to whom Rule 7 applies, any contingency occurring during, after or in relation to his employment as a civil servant which, had it occurred during, after or in relation to his former employment, would have been a contingency upon the happening of which any payment by way of pension would have been due under that pension scheme shall be treated as being such a contingency;
- (b) in the case of a person to whom Rule 10 applies, the contingencies of incapacity, disablement, marriage or death shall, subject to their being proved to the satisfaction of the Minister, be treated as occurring when they arise, and the contingency of retirement shall be deemed to occur when the person attains the age at which he was, under the pension scheme, entitled, without the consent of his employer in his former employment or of any other person, to retire with a pension other than a return of contributions:

Provided that—

- (i) if the pension scheme contained an option for him to retire at any earlier age with a reduced pension, the contingency of retirement at such earlier age shall be deemed to occur at that age if the person gives notice in writing to the Minister (not later than three months after attaining that age) that he elects to be treated as having retired at that age; and
- (ii) where a person to whom Rule 7 applies retires from the Civil Service before Civil Service retiring age otherwise than upon such medical certificate as is mentioned in Section 10 of the Superannuation Act, 1859 (which section relates to evidence of incapacity), he shall, unless he gives notice in writing of his desire to the contrary to the Minister within six months of such retirement, be treated as though subparagraph (b) of this paragraph were applicable to his case, and, in particular, the contingency of retirement shall not be deemed to occur in his case except in accordance with that paragraph.

2. The accrued rights upon the happening of a contingency in the case of a person who, on the 1st January, 1946, or at any time thereafter, had pension rights in a pension scheme associated with his former employment shall, subject to the following provisions of this Schedule, be deemed to be equal to such payments as would have been payable under that scheme to or in respect of the person in relation to that contingency if he had remained in his former employment without increase of emoluments until the age at which he was under that scheme entitled to retire with a pension other than a return of contributions or until the happening of the contingency, whichever is the earlier:

Provided that—

- (a) any provision in that scheme whereby any payments thereunder are calculated by reference to average emoluments over any period shall be construed as referring to the rate of emoluments at the end of that period; and
- (b) where a person to whom Rule 5 applies either retires from the Civil Service at or after Civil Service retiring age or retires from the Civil Service upon such medical certificate as is mentioned in Section 10 of the Superannuation Act, 1859, his accrued rights on such retirement shall be deemed to be equal to such payments as would have been payable

to him under that scheme (as modified where it applies, by the foregoing provision of this proviso) on retirement from his former employment if he had remained in his former employment until the age at which he retired from the Civil Service at the same salary (or on the same salary scale) as was applicable to him when his former employment ceased, and, in the case of retirement upon medical certificate, had been compelled then to retire from his former employment by reason of ill-health.

3. Where such part of the period of a person's former employment as was pensionable employment for the purpose of the pension scheme associated with it was shorter than the period of pensionable employment required by him under that pension scheme to secure the maximum payment for which he could qualify under that scheme in relation to any contingency, the accrued rights in relation to that contingency shall (except in a case to which paragraph (b) of the proviso to paragraph 2 applies) be reduced by a proportion corresponding to the degree by which the former period falls short of the latter.

4. Where the amount of the pension rights was ascertainable by reference to the pension value of the contributions paid by or in respect of a person, the accrued rights shall be limited to those accrued by virtue of the contributions paid by or in respect of him up to the date of termination of his former employment.

5. Where the pension rights were secured under a policy of insurance, the accrued rights shall (except in a case to which the preceding paragraph applies) be limited to those accrued by virtue of the premiums paid by or in respect of him up to the date of termination of his former employment.

6. Where the contingency is one giving a right to the return of contributions, the accrued rights shall be calculated as though the contingency had occurred at the date of termination of his former employment:

Provided that, where the right is to a return of contributions with interest, the interest shall be calculated, in the case of a person to whom Rule 10 applies, as though the date of the contingency were ascertained in accordance with the provisions of sub-paragraph (b) of paragraph 1 of this Schedule.

7. In determining the accrued rights in the case of any person in respect of whom the following conditions are fulfilled:—

- (a) that on the appointed day no person had pension rights under the pension scheme associated with his former employment, other than persons employed or formerly employed 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;
- (b) that his former emoluments included a bonus or other additional payment paid on account of war-time conditions and not then consolidated with his emoluments (hereafter in this paragraph called "war payments"), and no part of his pension rights under the pension scheme was in respect of war payments;
- (c) that, if the Society or body employing him had, on the 1st August, 1946, consolidated war payments with the emoluments of persons then in their employment, he would under the pension scheme have had pension rights in respect of war payments; and
- (d) that it is proved to the satisfaction of the Minister that the said Society refrained from so consolidating war payments in such circumstances that their failure to do so is directly attributable to the passing of the National Insurance Act;

that person shall be treated as if the Society had so consolidated war payments.

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8. In the calculation of accrued rights any sums paid by way of compensation in respect of the same rights or in respect of the same period under Section 67 of the National Insurance Act shall be taken into account.

9. In any case in which either—

- (a) 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; or
- (b) there has been default in making any transfer, in whole or part of any pension fund or of the assets held for the purposes of a pension scheme in accordance with Part IV of these Rules;

such adjustment shall be made in the calculation of accrued rights which result from such creation or which are a liability of such fund or under such scheme as may appear to the Minister to be appropriate.

THIRD SCHEDULE

Rules 12 and 13

FURTHER PROVISIONS AFFECTING TRANSFERS MADE BY VIRTUE OF, OR IN ACCORDANCE WITH, THESE RULES

1. Every asset which is transferred by virtue of, or in accordance with, these Rules shall vest free of any trust existing immediately before the appointed day.

2. Every transferor of any asset which is transferred by virtue of, or in accordance with, these Rules shall, on the request of the transferee, execute and do all such lawful assurances and things as may be necessary for perfecting the title thereto.

3.—(1) Without prejudice to the generality of the provisions of Rules 12 and 13, every transferor, and every person who is responsible for keeping any register or book in which there is registered or inscribed any asset transferred by virtue of, or in accordance with, these Rules, shall do all such things as are necessary, or as the transferee may direct, to be done for the purpose of securing the due registration or inscription of the title of the transferee to that asset and the delivery to the transferee of any document constituting evidence of the said registration or inscription.

(2) The duty imposed on any transferor or other person by the preceding sub-paragraph of this paragraph in relation to any asset shall include a duty to do all such things as are within his power to secure that any dividend or interest payable in respect of that asset on or after the appointed day will be paid to the transferee.

(3) A certificate that any specified asset is an asset which has been transferred to the transferee by virtue of, or in accordance with, these Rules shall, if it is signed by the Minister or on behalf of the Minister by any person authorised for that purpose by him, be treated by any person responsible or concerned as aforesaid as evidence that that asset has been so transferred.

4. Where any estate or interest in land is transferred by virtue of, or in accordance with, these Rules, that transfer shall not give rise to any forfeiture or determination of that estate or interest.

5.—(1) Where, by virtue of, or in accordance with, these Rules, any estate or interest in a part only of any land held under a lease or under an agreement for tenancy is transferred, and the lease or agreement does not reserve separate rents for the several parts of the land so held, then, as from the appointed day, the rent shall be apportioned between the several parts thereof according to their value, and the covenants, agreements and conditions contained in the lease or agreement shall be severed.

(2) As from the severance on the appointed day, no liability arising on or after that day for any apportioned rent or any breach of any covenant, agreement or condition contained in the lease or agreement in respect of any part of the land transferred to the transferee shall attach to the transferor or to the successors in title of the transferor, and no liability so arising for any such rent or breach in respect of any part of the land not so transferred shall attach to the transferee or to the successors in title of the transferee.

6. Where, on or after the appointed day, any person retains possession of any document relating to the title to, or to the control or management of, any asset transferred by virtue of, or in accordance with, these Rules, that person shall be deemed to have given to the transferee an acknowledgment in writing of the right of the transferee to production of that document and to delivery of copies thereof, and Section 64 of the Law of Property Act, 1925 (which relates to the production and safe custody of documents) shall apply as if the acknowledgment had been given without any such expression of contrary intention as is referred to in subsection (13) of that section.

7. Every agreement, whether in writing or not, and every document not being an agreement, under which, immediately before the appointed day, any asset transferred by virtue of, or in accordance with, these Rules is held shall, unless any property not so transferred is held thereunder, as from the appointed day, have effect as if a reference to the transferee were substituted for any reference therein (however worded and whether express or implied) to the transferor.

8. Any proceedings affecting any asset transferred by virtue of, or in accordance with, these Rules which, on the appointed day, are pending shall not be prejudicially affected by reason of that transfer, but any such proceedings may be amended in such manner as may appear necessary or proper for enabling them to be prosecuted or enforced by or against the transferee or any other person or persons concerned, as the case may be.

9. References in this Schedule to an asset shall include references to the whole or part of any fund transferred by these Rules, and references to an asset transferred shall, where appropriate, include references to an asset to be transferred.

10.—(1) The following provisions of this paragraph shall have effect for the purpose of the application of Rules 12 and 13 and this Schedule to Scotland.

(2) “Mortgage” means a heritable security and “mortgagee” means the creditor in a heritable security; “trust” has the meaning assigned to it by the Trusts (Scotland) Act, 1921; and a “heritable security” has the like meaning as in the Conveyancing (Scotland) Act, 1924, except that it includes a security constituted by *ex facie* absolute disposition but does not include a real burden *ad factum praestandum*.

(3) For paragraph 2 of this Schedule there shall be substituted the following paragraph:—

“2. Every transferor of any asset which is transferred by virtue of these Rules shall on the request of the transferee execute all deeds and documents necessary for the completion of the title of the transferee to that asset.”

(4) Paragraph 6 of this Schedule shall have effect as though the words occurring after the words “of copies thereof” were omitted.

FOURTH SCHEDULE

Rule 15

ARRANGEMENTS FOR SECURING PAYMENT OF
THE LIABILITIES UNDER AN AFFECTED SCHEME

1.—(1) There shall be a fund called “the National Insurance (Existing Pensioners) Fund,” which shall be under the control and management of the Minister, and there shall be carried to that Fund the funds and assets transferred under Part IV of these Rules, and such part thereof shall be retained in that Fund as the Minister, with the consent of the Treasury, determines to be requisite for securing the payment of the liabilities transferred to the Minister by Rule 12, and the remainder thereof shall be realised and transferred to the Exchequer.

(2) Where any of the said funds and assets are, in the opinion of the Minister, unsuitable for retention in that Fund, they may be sold or otherwise disposed of in such manner as he may, with the consent of the Treasury, determine.

(3) There shall be paid out of that Fund, subject to and in accordance with these Rules, such sums as are from time to time required to meet the said liabilities as they accrue.

(4) Accounts of that Fund shall be prepared in such form, in such manner and at such times as the Treasury may direct, and the Comptroller and Auditor General shall examine and certify every such account and shall lay copies thereof, together with his report thereon, before Parliament.

(5) Any moneys forming part of that Fund may from time to time be paid over to the National Debt Commissioners and by them invested, in accordance with such directions as may be given by the Treasury, in any securities which are for the time being authorised by Parliament as investments for savings banks funds.

(6) The National Debt Commissioners shall present to Parliament annually an account of the securities in which moneys forming part of that Fund are for the time being invested.

(7) If, in the opinion of the Minister, the balance of that Fund at any time exceeds the amount necessary for securing payment of the said liabilities, any surplus shall be realised and transferred to the Exchequer, and there shall be so realised and transferred any balance remaining after all the said liabilities have been discharged.

2. Every person (hereafter in this Schedule called “the payee”) by whom or on whose behalf any payment in respect of any liability transferred to the Minister by Rule 12 is receivable, shall furnish in such manner and at such times as the Minister may determine such certificates and other documents and such information of facts affecting the right to payment as the Minister may require, and in particular shall notify the Minister in writing of any change of circumstances which the payee might reasonably be expected to know might affect the right to payment as soon as reasonably practicable after the occurrence thereof.

3. Where the payee is certified by a justice or minister of religion, and by a medical practitioner, to be unable by reason of mental disability to manage his affairs, the Minister may pay so much of any payment in respect of any liability transferred to the Minister by Rule 12 as he may think fit to the institution or person having the care of the payee, and may pay the surplus, if any, or such part thereof as he may think fit, for or towards the maintenance and benefit of the wife or husband and relatives of the payee, and the Minister shall be discharged from all liability in respect of any sums so paid.

4. Where the payee dies before any payment in respect of any liability transferred to the Minister by Rule 12 is made and the amount unpaid does not exceed one hundred pounds, the amount so unpaid may be paid to the personal representative of the payee without probate or other proof of title, or may be paid or distributed to or among the persons appearing to the Minister to be the persons beneficially entitled to the personal estate of the payee, and, in determining the persons to whom, and the proportions in which, the amount so unpaid shall be paid or distributed, the Minister may

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have regard to any payments made or expenses incurred by any such person for or on account of the funeral of the payee.