1954 No. 1050

The Justices' Clerks and Assistants (Superannuation) Regulations, 1954

Made - - - - *29th July*, 1954
Coming into Operation *1st October*, 1954

The Minister of Housing and Local Government, in exercise of the powers conferred on him by paragraphs 2 and 7 of the Third Schedule to the Local Government Superannuation Act, 1953(a), and of all other powers enabling him in that behalf, hereby makes the following regulations, a draft of which has been laid before Parliament and approved by resolution of each House of Parliament:—

Citation and commencement

1. These regulations may be cited as the Justices' Clerks and Assistants (Superannuation) Regulations, 1954, and shall come into operation on the first day of October, 1954.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

" the council " in relation to any employment means the council paying a person's remuneration for that employment;

" the Act of 1937 " means the Local Government Superannuation Act, 1937(b);

" the Act of 1949 " means the Justices of the Peace Act, 1949(c);

" the Act of 1953 " means the Local Government Superannuation Act, 1953;

" the benefits regulations " means the Local Government Superannuation (Benefits) Regulations, 1954(d);

" collecting officer " means a collecting officer of a court of summary jurisdiction appointed under the Affiliation Orders Act, 1914(e);

" existing or former clerk or employee " means a person who before the first day of April, 1953, had been a justices' clerk or employed by such a clerk in connection with the clerkship or a person who on the said date was transferred to the employment of a magistrates' courts committee by subsection (5) or (6) of section 23 of the Act of 1949, and includes a clerk or employee who on the said date was performing national service and on the termination of that service, or within six months thereafter, became or becomes a contributory employee of a magistrates' courts committee, and who, if he had continued to be occupied as he was occupied immediately before entering on such service as aforesaid, would have been transferred to the employment of a magistrates' courts committee on the said date by virtue of subsection (1), (5) or (6) of the said section 23; and " existing clerk or employee " means any such person as aforesaid who by virtue of subsection (1), (5) or (6) of the said section 23 became a contributory employee of a magistrates' courts committee;

(a) 1 & 2 Eliz. 2. c. 25. (b) 1 Edw. 8 & 1 Geo. 6. c. 68.
(c) 12, 13 & 14 Geo. 6. c. 101. (d) S.I. 1954/1048, p. 1595 below.
(e) 4 & 5 Geo. 5. c. 6.

"national service", in relation to any person, means service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(a), and includes any period immediately following the termination thereof during which (with the consent, in the case of a justices' clerk, of the authority by whom he was appointed, and in the case of any other person, of the authority or person by whom he was employed before undertaking that service) the person continues in similar service;

"war service", in relation to any person, means service in the armed forces of the Crown, being service rendered between the fourth day of August, 1914, and the thirty-first day of August, 1921, war service within the meaning of the Local Government Staffs (War Service) Act, 1939(b), and any period after the termination of the last mentioned service during which (with the consent, in the case of a justices' clerk, of the authority by whom he was appointed, and, in the case of any other person, of the authority or person by whom he was employed before undertaking that service) the person continues in similar service, but does not include, in the case of a person who before the termination of his war service made a claim under section 10 of the Act of 1937 or any corresponding provision of a local Act scheme for the return of contributions made by him for superannuation purposes, any part of his war service after the date on which the claim was made.

(2) The Interpretation Act, 1889(c), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) Unless the context otherwise requires, references in these regulations to any enactment shall be construed as references to that enactment as amended or modified by any subsequent enactment.

Adaptations, etc., of Act of 1937

3.—(1) The Act of 1937 shall have effect in relation to persons to whom Part I of the Third Schedule to the Act of 1953 applies with the adaptations, modifications and exceptions specified in this regulation.

(2) In subsections (2) and (3) of section 6 and in paragraph (*b*) of subsection (2) of section 21 references to an employing authority shall be construed as references to the council and not as references to the magistrates' courts committee; and subsection (4) of section 6 shall not apply.

(3) Subsection (4) of section 10 shall have effect as if it—

(*a*) required the magistrates' courts committee to report to the council any decision taken by them thereunder; and

(*b*) provided that if the council are dissatisfied with the decision they may within one month of receiving the report appeal to the Secretary of State, whose determination shall be final, and that if the council appeal the decision of the committee shall not be effective until the appeal is determined.

(4) Subsection (6) of section 36 shall have effect as if it provided that regulations thereunder may provide for anything to be done by or to the council where apart from this provision they could provide for it to be done by or to the magistrates' courts committee.

(5) A person's remuneration for any employment where he has more than one and does not receive separate remuneration for that employment shall be taken to be that part of his entire remuneration which is paid by the council or, where the remuneration for more than one employment is paid

(a) 14 & 15 Geo. 6. c. 65. (b) 2 & 3 Geo. 6. c. 94. (c) 52 & 53 Vict. c. 63.

by the same council, such part of that remuneration as may be agreed between him and the council or as in default of agreement may be determined by the Secretary of State ; and the definition of " remuneration " in section 40 shall have effect accordingly.

(6) Section 40 shall have effect as if there were inserted at the end thereof the following subsection:—

" (4) Without prejudice to the last preceding subsection, a person who holds two or more clerkships under a magistrates' courts committee or is employed by a magistrates' courts committee to assist a justices' clerk or clerks in two or more clerkships shall be deemed for the purposes of this Act (except section 4 thereof) to be in separate employments under separate authorities as respects any clerkships for which the remuneration is paid by different councils."

Adaptations, etc., of Act of 1953

4.—(1) The Act of 1953 shall have effect in relation to such persons as aforesaid with the adaptations, modifications and exceptions specified in this regulation.

(2) In the proviso to subsection (2) of section 2 the reference to the employing authority shall be construed as a reference to the council and not as a reference to the magistrates' courts committee.

(3) The said subsection (2), subsection (3) of section 17 and subsection (1) of section 18 shall have effect as if they—

(*a*) required the magistrates' courts committee to report to the council any decision taken by them thereunder ; and

(*b*) provided that if the council are dissatisfied with the decision they may within one month of receiving the report appeal to the Secretary of State, whose determination shall be final, and that if the council appeal the decision of the committee shall not be effective until the appeal is determined.

(4) In subsection (4) of section 2 the reference to the first superannuation regulations shall be construed as a reference to these regulations.

(5) Any reference in subsections (7) and (8) of section 5, subsection (3) of section 7, subsection (3) of section 11 and subsection (4) of section 12 to the passing of the Act shall be construed as a reference to the coming into operation of these regulations.

(6) Subsection (2) of section 11 and subsection (2) of section 12 shall have effect as if after the words " the employment of the authority " in each of those subsections there were inserted the words " or of the coming into force of the first regulations made under paragraph 2 of the Third Schedule to this Act, whichever last occurs."

(7) Any reference in section 12 to section 11 shall be construed as a reference to section 11 as adapted by these regulations.

(8) In proviso (i) to subsection (1) of section 18 there shall be inserted at the end the words " but shall be paid by the council."

Adaptations, etc., of benefits regulations

5.—(1) The benefits regulations shall have effect in relation to such persons as aforesaid with the adaptations, modifications and exceptions specified in this regulation.

(2) In paragraph (1) of regulation 2, for the definitions of " national service " and " war service " there shall be substituted the definitions of those expressions contained in paragraph (1) of regulation 2 of these regulations.

(3) In relation to a person who first became superannuable under Part I of the Act of 1937 by virtue of the Act of 1949 and was over the age of seventy years on the first day of April, 1953, paragraph (1) of regulation 3 shall have effect as if for the words "ending with the last day of his service" there were substituted the words "ending with the thirty-first day of March, 1953."

(4) In sub-paragraph (*b*) of paragraph (3) of regulation 5 for the words "the age of sixty-five years", in relation to a justices' clerk, there shall be substituted the words "the age of seventy years".

(5) Regulations 7 and 12, paragraphs (4), (5) and (6) of regulation 18 and sub-paragraph (*a*) of paragraph (1) of regulation 19 shall have effect as if they—

(*a*) required the magistrates' courts committee to report to the council any decision taken by them thereunder; and

(*b*) provided that if the council are dissatisfied with the decision they may within one month of receiving the report appeal to the Secretary of State, whose determination shall be final, and that if the council appeal the decision of the committee shall not be effective until the appeal is determined.

(6) Regulation 14 shall not apply to a person who first became superannuable under Part I of the Act of 1937 by virtue of the Act of 1949.

Provisions as to service and remuneration

6.—(1) In relation to an existing or former clerk or employee, the expression "service" shall include, in addition to any service which he is entitled to reckon apart from this paragraph, any service rendered after attaining the age of eighteen years and before attaining any age at which, by virtue of the proviso to subsection (1) of section 6 of the Act of 1937, he ceases to be liable to contribute to the superannuation fund, being either—

(*a*) service as a justices' clerk; or

(*b*) service in the employment of a justices' clerk or clerks during which he devoted substantially the whole of his time to assisting the justices' clerk or clerks in the performance of the duties appertaining to his or their clerkship or clerkships or partly to that and partly to duties under a local authority; or

(*c*) in the case of an existing clerk or employee, service as a collecting officer or in the employment of a collecting officer or officers during which he devoted substantially the whole of his time to performing or assisting in the performance of the duties of a collecting officer or collecting officers or partly to that and partly to duties under a local authority; or

(*d*) war service or national service performed by a person who ceased to serve as a justices' clerk or as a collecting officer or, as the case may be, ceased to be in such employment of a justices' clerk or clerks or of a collecting officer or officers as aforesaid in order to enter upon that service if, in the case of national service, he became a person to whom this regulation applies within six months after the termination thereof:

Provided that, where the employment which a person left in order to enter upon war service or national service was part-time employment, any service reckonable by virtue of sub-paragraph (*d*) of this paragraph in relation to him shall be treated for the purposes of subsection (5) of section 12 of the Act of 1937 as part-time service of the like extent as the employment which he left.

(2) Where the last preceding paragraph has applied to a person, and he is at any time a contributory employee otherwise than in the capacity in which it applied to him, the expression "service" shall include any service which it included in relation to him in that capacity.

(3) Where a person who—

(*a*) on the first day of April, 1953, was performing national service and on the termination of such service, or within six months thereafter, became or becomes a contributory employee of a magistrates' courts committee; or

(*b*) had completed a period of such service before the said date and became a contributory employee of a magistrates' courts committee on that date;

was immediately before entering on such service occupied in a transferable capacity under such conditions that rules under section 1 of the Superannuation (Miscellaneous Provisions) Act, 1948(**a**), could not be made to apply as respects the service, the Act of 1937 shall apply in relation to him as if during the period of such service he had continued to be occupied in the capacity in which he was occupied immediately before entering on such service and had been entitled to remuneration in that capacity.

For the purposes of this paragraph a person shall be treated as occupied in a transferable capacity at any time if he would then have been transferred to the employment of, or deemed to be appointed by, a magistrates' courts committee by virtue of subsection (1), (5) or (6) of section 23 of the Act of 1949, if section 19 of that Act had then come into force.

(4) Where an existing or former clerk or employee has been a collecting officer of any court, or employed by the collecting officer of any court to assist him in the performance of his duties as such, the time devoted by him thereto and his remuneration in respect thereof during any period when he was clerk of that court, or was employed by that clerk to assist him in the duties appertaining to his clerkship, shall be treated, in reckoning his service under paragraph (1) of this regulation and the remuneration in respect of that service, as time devoted to and remuneration in respect of the duties of the clerkship or the employment by the clerk in connection with those duties, as the case may be.

(5) A person's remuneration as justices' clerk for any period for which he is not or was not paid a salary determined in accordance with section 26 of the Act of 1949, and a person's remuneration as collecting officer for any period shall be taken to be or have been the salary and other payments paid or made to him as such and retained by him for his own use, after deducting the amount of any salaries or other sums paid by him to persons employed by him in connection with his duties as clerk or collecting officer, and after deducting the amount of his office expenses (if any).

(6) In this regulation references to a justices' clerk include a clerk to the justices of a liberty.

Actuaries' certificates as to payment by councils to superannuation funds

7.—(1) Every administering authority maintaining a superannuation fund to which employees of any relevant council contribute shall, if they have not obtained from an actuary a certificate for the purposes of sub-paragraph (1) of paragraph 17 of the Fifth Schedule to the Act of 1949, obtain from an actuary a certificate as to the amount necessary to be paid by the council into the fund annually during a period not exceeding twenty years on account of the burden imposed on the fund by the said Act in respect of existing clerks or employees who became by virtue of subsection (1), (5) or (6) of section 23 thereof contributory employees of the magistrates' courts committee set up to act for the area of the council.

(a) 11 & 12 Geo. 6. c. 33.

(2) The certificate shall be obtained as soon as maybe after the coming into operation of these regulations and the said period of twenty years shall run from the date of their coming into operation.

(3) In certifying the said amount the actuary shall take into account any transfer values payable in respect of any of the existing clerks or employees who were previously liable to contribute to some other fund and make a corresponding allowance in respect of those who were previously liable to contribute to the same fund.

(4) The amount certified shall be paid to the fund by the council.

(5) The relevant councils for the purposes of this regulation are the councils of any county, any county borough and any borough named in the Third Schedule to the Act of 1949.

Retrospective application of the regulations

8. These regulations shall apply to or in respect of a person who on or after the first day of April, 1953, (being the date on which section 19 of the Act of 1949 came into force) but before the coming into operation of these regulations retired from employment in respect of which these regulations would have applied to him if they had then been in operation, or died while engaged in or after retirement from such employment, as if they had been in force and applicable to or in respect of him at the time of his retirement or death, as the case may be:

Provided that—

(*a*) in subsections (7) and (8) of section 5, subsection (3) of section 7, subsection (3) of section 11 and subsection (4) of section 12 of the Act of 1953 in their application to such a person the expression "the date of the passing of the Act" (except where used in relation to a period after the passing of that Act) shall mean the date of his retirement or death, as the case may be;

(*b*) in the case of a person who died before the coming into operation of these regulations leaving a widow, the said subsections (7) and (8) shall have effect as if they provided that the widow should be entitled to reckon as contributing service of her husband the periods therein mentioned if within the period therein mentioned (as modified by these regulations) she paid the sum therein mentioned;

(*c*) paragraph (1) of regulation 18 of the benefits regulations, in its application to a person to whom these regulations apply by virtue of this regulation, shall have effect as if the words "being a man who has a wife living who would be entitled to a widow's pension if he were entitled to a retirement pension and died forthwith" were omitted.

Given under the official seal of the Minister of Housing and Local Government this twenty-ninth day of July, nineteen hundred and fifty-four.

(L.S.) *Harold Macmillan,*
Minister of Housing and Local Government.

EXPLANATORY NOTE

(*This Note is not part of the Regulations but is intended to indicate their general purport.*)

These regulations specify, in relation to justices' clerks and assistants, the adaptations, modifications and exceptions with which the Local Government Superannuation Acts of 1937 and 1953 and the regulations made under section 1 of the Act of 1953 are to apply to such persons. Regulation 8

applies the regulations retrospectively (in exercise of the express power contained in paragraph 7 of the Third Schedule to the Act of 1953) to justices' clerks and assistants who retired between the coming into force of section 19 of the Justices of the Peace Act, 1949, and the coming into force of the regulations and to the widows of justices' clerks and assistants who died during that period.

1954 No. 1250

The Local Government Superannuation (England and Scotland) (Amendment) Regulations, 1954

Made - - - -	*21st September*, 1954
Laid before Parliament	*28th September*, 1954
Coming into Operation	*1st October*, 1954

The Minister of Housing and Local Government and the Secretary of State, acting jointly, in exercise of their powers under section 38 of the Local Government Superannuation Act, 1937(**a**), and section 36 of the Local Government Superannuation (Scotland) Act, 1937(**b**), as amended by the Local Government Superannuation Act, 1953(**c**), and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation and commencement

1. These regulations may be cited as the Local Government Superannuation (England and Scotland) (Amendment) Regulations, 1954, and shall come into operation on the first day of October, 1954.

Interpretation

2.—(1) These regulations and the Local Government Superannuation (England and Scotland) Regulations, 1948(**d**), and the Local Government Superannuation (England and Scotland) (Amendment) Regulations, 1949(**e**), shall be construed as one and may be cited together as the Local Government Superannuation (England and Scotland) Regulations, 1948 to 1954.

(2) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:—

"the Act of 1953" means the Local Government Superannuation Act, 1953;

"the principal regulations" means the Local Government Superannuation (England and Scotland) Regulations, 1948;

"the English benefits regulations" means the Local Government Superannuation (Benefits) Regulations, 1954(**f**);

"the Scottish benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(**g**);

"regulation" means regulation contained in the principal regulations.

(3) The Interpretation Act, 1889(**h**), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Definitions and adaptations of references

3.—(1) In regulation 2 (which defines expressions used in the principal regulations), in paragraph (2) the words "local Act contributor" shall be omitted and there shall be inserted the following definitions—

"the Act of 1953" means the Local Government Superannuation Act, 1953;

(**a**) 1 Edw. 8 & 1 Geo. 6. c. 68. (**b**) 1 Edw. 8 & 1 Geo. 6. c. 69. (**c**) 1 & 2 Eliz. 2. c. 25.
(**d**) S.I. 1948/1131 (Rev. XVII, p. 813: 1948 I, p. 3304). (**e**) S.I. 1949/631 (1949 I, p. 3052).
(**f**) S.I. 1954/1048, p. 1595 below. (**g**) S.I. 1954/1059, p. 1632 below. (**h**) 52 & 53 Vict. c. 63.