CHAPTER 94.

An Act to make provision with respect to the war service of clerks and deputy clerks of the peace, coroners and persons employed by local and public authorities and certain undertakers, and to prevent persons being disqualified for membership of a local authority by reason of employment in civil defence service or being disqualified for such employment by reason of such membership.

[5th September 1939.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Civil Remuneration.

Payments to make up civil remuneration.

1.—(1) Where a person serving in any capacity specified in the first column of the Schedule to this Act (hereafter in this section referred to as "his civil capacity") ceases so to serve in order to undertake war service, the appropriate authority shall have power to make to or in respect of him such payments as are hereafter in this section provided.

(2) While any such person is engaged in war service, the appropriate authority may pay to him, or to or for the benefit of his wife or other dependants nominated by him, a sum which shall not exceed the remuneration which he would have received if he had continued to

serve in his civil capacity, after deducting therefrom the amount of his war service pay.

(3) In the event of the notification of the death of any such person whilst engaged in war service, or of his having become missing while so engaged, being given by the authority competent in that behalf, the appropriate authority may, during a period not exceeding twenty-six weeks from the date of the notification, pay to or for the benefit of his wife or other dependants such sum as might have been paid to him under the last preceding subsection if he had been so engaged during that period:

Provided that, in fixing the sum to be paid under this subsection, regard shall be had to any pension or other sum payable to or for the benefit of the wife or other dependants out of public or charitable funds.

(4) In this section the expression "appropriate authority," in relation to a person serving in any capacity specified in the first column of the Schedule to this Act, means the authority specified in the second column of that Schedule in relation to that capacity.

Medical officers of health and sanitary inspectors.

2.—(1) Where—

(*a*) a person serving a local authority as a medical officer of health or sanitary inspector ceases so to serve in order to undertake war service; and

(*b*) one-half of his salary is payable by any other authority or authorities under any enactment to which this section applies;

then, if and so long as some other person is appointed to act temporarily in his absence on war service, that enactment shall have effect as if for references to one-half of the salary of the officer there were substituted references to one-half of the aggregate of—

(i) any sums actually paid by the local authority under section one of this Act to the person undertaking war service or to or for the benefit of his wife or other dependants; and

(ii) the salary of the person appointed as aforesaid.

(2) This section applies to the following enactments, namely—

23 & 24 Geo. 5. c. 51.

(*a*) section one hundred and nine of the Local Government Act, 1933;

(*b*) paragraph 3 of the First Schedule to the Public Health Act, 1936; and 26 Geo. 5 & 1 Edw. 8. c. 49.

(*c*) section twelve of the Public Health (London) Act, 1936, or section eighty of the London Government Act, 1939. 26 Geo. 5 & 1 Edw. 8. c. 50. 2 & 3 Geo. 6. c. 40.

Superannuation.

Superannuation rights.

3.—(1) Where a person serving in any superannuable capacity specified in the first column of the Schedule to this Act (hereafter in this section referred to as "his civil capacity") ceases so to serve in order to undertake war service, the period of his war service shall, for superannuation purposes, be aggregated with the period of his service in his civil capacity and reckoned—

(*a*) in relation to any employment in relation to which he is entitled, for the purposes of the Local Government Superannuation Acts, 1937 and 1939, to reckon as contributing service his service immediately before he ceased so to serve, as a period of contributing service;

(*b*) in relation to any employment in relation to which he is entitled, for the purposes of those Acts, to reckon as non-contributing service his service immediately before he ceased so to serve, as a period of non-contributing service; and

(*c*) in relation to any employment to which a special superannuation enactment applies, as a period of service in his civil capacity.

(2) If any such person—

(*a*) dies during his period of war service; or

(*b*) is prevented, in consequence of being permanently incapacitated by injury or disease received or contracted during that period, from resuming service in his civil capacity; or

(*c*) attains during his period of war service the age of compulsory retirement applicable in relation to his civil capacity, or the age at which he would, if he had been serving in that capacity, have become entitled to a superannuation allowance;

he shall be deemed for superannuation purposes to have been serving in his civil capacity at the time of his death, or at the time when he should have resumed service in that capacity, or at the time at which he attained the age in question, as the case may be.

(3) Where for the purpose of calculating the amount of superannuation allowance due to any such person, it is necessary to take account of his remuneration in respect of any period of war service which, by virtue of the foregoing provisions of this section is aggregated with the period of his service in his civil capacity, the amount of his remuneration during that period shall be deemed to have been the amount by reference to which the calculation would have been made if he had continued to serve during that period in his civil capacity.

(4) Where a person in the employment of an officer of a local authority, and engaged wholly or mainly in the performance of duties relating to the functions of that authority, ceases to be so employed in order to undertake war service, the period of his war service shall be deemed, for the purpose of subsection (6) of section twelve of the Local Government Superannuation Act, 1937, to be a period of service in the employment of an officer of that authority.

1 Edw. 8. & 1 Geo. 6. c. 68.

Payment of contributions.

4.—(1) Where a person serving in any superannuable capacity specified in the first column of the Schedule to this Act (hereafter in this section referred to as "his civil capacity") ceases so to serve in order to undertake war service and, immediately before he ceased so to serve, was liable to make contributions for superannuation purposes in respect of his service in his civil capacity, the following provisions of this section shall have effect as respects the payment of such contributions during the period of his war service.

(2) For any part of the period of his war service for which—

(*a*) payments are being made to or in respect of him under subsection (2) of section one of this Act; or

(*b*) the amount of his war service pay is not less than the remuneration which he would have received if he had continued to serve in his civil capacity;

any such person shall contribute to the superannuation fund or other fund out of which a superannuation allowance might become payable to him the like amounts at the like times as if he had continued to serve in his civil capacity, and the appropriate authority shall pay any contribution which in that event it would have been liable to pay to that fund.

(3) For any other part of the period of his war service the appropriate authority, if the superannuation allowance to which any such person might become entitled would be payable out of a superannuation fund, may pay in respect of him to that fund the aggregate amount which he would have been liable to contribute to that fund had he continued to serve in his civil capacity, together with any contribution which in that event that authority would have been liable to pay to that fund:

Provided that, for the purpose of any provision of the Local Government Superannuation Acts, 1937 and 1939, or of a special superannuation enactment, relating to the return of contributions on his ceasing to be employed in his civil capacity or dying, any payments made by the appropriate authority under this subsection shall be disregarded.

(4) The last foregoing subsection shall not apply to a person who ceased to serve as a probation officer (other than a probation officer in the City of London) in order to undertake war service, but during any part of the period of war service of such a person, except such part as is mentioned in subsection (2) of this section, the probation authority shall pay to the superannuation fund established by any rules or scheme relating to the superannuation of such an officer amounts equal to the aggregate of—

(*a*) any sums which he would have contributed to the fund if he had continued to serve in his civil capacity; and

(*b*) any contributions which in that event the probation authority would have paid to the fund;

at the times at which in that event the authority would have paid the last mentioned contributions.

(5) Contributions payable under subsection (2) of this section by any person engaged in war service—

(*a*) shall be recovered by the appropriate authority by way of deduction from any sums which it is authorised or liable to pay to him or to or for the benefit of his wife or other dependants; and

(*b*) if and so far as they are not so recovered, may be recovered by the authority charged with the administration of the superannuation or other fund, either as a simple contract debt in any court of competent jurisdiction or by way of deduction from any payment by way of superannuation allowance.

(6) In this section the expression "appropriate authority" has the same meaning as in section one of this Act, except that—

(*a*) in relation to any person ceasing to serve in any capacity mentioned in paragraph 5 or paragraph 8 of the first column of the Schedule to this Act, the said expression in this section means the local authority of which he is deemed for the purpose of the Local Government Superannuation Act, 1937, to be a contributory employee; and

(*b*) in relation to any person ceasing to serve in any capacity mentioned in paragraph 6 or paragraph 9 of the first column of that Schedule, the said expression in this section means the local authority administering the local Act scheme which applies to him.

Return of contributions.

5. Where, under section ten of the Local Government Superannuation Act, 1937, or any corresponding provision of a special superannuation enactment, a claim is made, by any person who has ceased to serve in any capacity in order to undertake war service, for the return of contributions made by him for superannuation purposes, no period after the date on which the claim is made shall be included in his period of war service for the purpose of the last two foregoing sections.

Decision of questions.

6.—(1) Any question concerning the rights or liabilities under the last three foregoing sections of a person who has ceased to serve in any capacity in order

to undertake war service shall be decided in the first instance by the appropriate authority within the meaning of section four of this Act.

(2) If any such person, or, in a case where any such question has been decided by an authority other than the authority charged with the administration of the superannuation or other fund out of which a superannuation allowance might become payable to him, the authority so charged, is dissatisfied with any decision under the last foregoing subsection, or with any failure to come to such a decision, the question shall be determined by the Minister, and the Minister's determination shall be final:

Provided that the Minister may at any stage in the proceedings on the reference to him, and shall if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings.

(3) The foregoing provisions of this section shall not apply in the case of a person who ceased to serve as a probation officer (other than a probation officer in the City of London) in order to undertake war service, and any question concerning the rights or liabilities of any such person under the last three foregoing sections shall be decided in accordance with the rules or scheme relating to the superannuation of such an officer.

Application to persons employed by certain undertakers. 2 & 3 Geo. 6. c. 18.

7. In relation to a person entitled, by virtue of his employment by any undertakers or other persons, to participate in the benefits of a superannuation fund under section five of the Local Government Act, 1937, or under a scheme made under section three of the Local Government Superannuation Act, 1939, the last four foregoing sections shall apply subject to the following modifications—

(*a*) service in the said employment shall be deemed to be service in a superannuable capacity specified in the first column of the Schedule to this Act;

(*b*) in relation to any such person, the said undertakers or other persons shall be deemed to be the appropriate authority within the meaning of section four;

(*c*) any payments made to or in respect of any such person by the said undertakers or other persons

to supplement his pay in respect of his war service shall be deemed, for the purpose of subsection (2) of section four, to be made under subsection (2) of section one of this Act;

(*d*) in relation to a person entitled as aforesaid by virtue of any such scheme, references to the Local Government Superannuation Acts, 1937 and 1939, or to section ten of the Local Government Superannuation Act, 1937, shall be construed as references to the Local Government Superannuation Act, 1937, as applied by the scheme, or to the said section ten as so applied.

Saving for Teachers (Superannuation) Acts.

8. Nothing in the last five foregoing sections shall apply to any person who, in order to undertake war service, ceases to serve in service which is contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1937.

Miscellaneous and General.

Superannuation of persons employed in civil defence service.

9.—(1) Subject to the foregoing provisions of this Act, the employment of any person by a local authority in civil defence service shall not, for superannuation purposes, be deemed to be employment by that authority, unless that person—

(*a*) was employed by that authority immediately before the beginning of the period of the present emergency in pensionable service which was civil defence service; or

(*b*) is transferred during the said period to civil defence service from some other service under the same authority which was pensionable service, and receives in respect of his employment in civil defence service remuneration not less than that which he would have received if he had not been so transferred; or

(*c*) enters the employment of that authority in civil defence service during the said period after ceasing to be employed in service which was pensionable service by some other authority,

being a local authority within the meaning of the Local Government Superannuation Acts, 1937 and 1939, or the Local Government Superannuation (Scotland) Acts, 1937 and 1939, and while employed by the first-mentioned authority—

(i) is required to devote substantially the whole of his time to duties which are wholly or mainly administrative, professional or clerical; and

(ii) receives in respect of his employment remuneration not less than that which he would have received if he had continued to be employed by that other authority as aforesaid.

(2) In this section the expression "pensionable service", in relation to a person employed in any capacity by any authority, means service in respect of which he is entitled to participate in the benefits conferred by any enactment or scheme providing for his superannuation as a person employed in that capacity by that authority, not being service which is contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1937.

Removal of disqualification of persons employed in civil defence service.

10. Notwithstanding anything in any enactment—

(*a*) a person shall not be disqualified for being elected or being a member of a local authority by reason only that he is employed in civil defence service for reward during the period of the present emergency by or under the direction of the authority, or a committee or sub-committee of the authority, or a board, committee or sub-committee a member whereof is appointed on the nomination of the authority; and

(*b*) a person who is or has been a member of a local authority shall not be disqualified for being employed as aforesaid.

Provision as to persons called out or under training.

11.—(1) The provisions of Articles 4 to 10 of the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of service as a person called out which falls during the period of the present emergency.

(2) The provisions of Article 4 of the Military Training (Consequential Provisions) Order, 1939, shall not apply with respect to any part of any person's period of training which falls within the period of the present emergency.

(3) Where any person—

(*a*) at the beginning of the period of the present emergency is serving as a person called out or as a person under training; and

(*b*) immediately before he was called out or immediately before the beginning of his period of training as the case may be, was serving in any capacity specified in the first column of the Schedule to this Act, or in any capacity by virtue whereof he was entitled under section five of the Local Government Superannuation Act, 1937, or a scheme made under section three of the Local Government Superannuation Act, 1939, to participate in the benefits of a superannuation fund;

he shall be deemed for the purposes of this Act to have ceased to serve in that capacity immediately after the beginning of the period of the present emergency in order to undertake war-service.

(4) In this section the expression "called out" has the same meaning as in the Reserve and Auxiliary Forces (Consequential Provisions) Order, 1939, and the expressions "person under training" and "period of training" have respectively the same meanings as in the Military Training (Consequential Provisions) Order, 1939.

Exception of police and firemen.

11 & 12 Geo. 5. c. 31.

15 & 16 Geo. 5. c. 47.

12. Nothing in this Act shall apply to—

(*a*) a member of a police force within the meaning of the Police Pensions Act, 1921; or

(*b*) a professional fireman as defined by paragraph (2) of section twenty-three of the Fire Brigade Pensions Act, 1925, as amended by any subsequent enactment (whether or not

the provisions of that Act as so amended have effect in relation to him), not being a fireman who gave, under subsection (2) of section twenty-four of that Act or under subsection (3) of section seventeen of the Fire Brigades Act, 1938, a written notice that he desired that the provisions of the Local Government and other Officers' Superannuation Act, 1922, or of a local Act scheme should continue to apply to him. 1 & 2 Geo. 6. c. 72. 12 & 13 Geo. 5. c. 59.

13.—(1) Any expenses incurred by a probation authority under this Act shall be deemed for the purposes of sections five and nine of the Criminal Justice Act, 1925, to be expenses in respect of the salaries of probation officers. Expenses. 15 & 16 Geo. 5. c. 86.

(2) There shall be defrayed out of moneys provided by Parliament any increase resulting from the operation of this Act in expenditure which is authorised by any enactment to be so defrayed.

14.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them— Interpretation.

"civil defence service" means any service established under the Civil Defence Acts, 1937 and 1939;

"local authority" and "local Act scheme" have respectively the same meanings as in the Local Government Superannuation Acts, 1937 and 1939;

"the Minister" means the Minister of Health;

"period of the present emergency" means the period beginning with the first day of September nineteen hundred and thirty-nine, and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end;

"probation authority" means, as respects the metropolitan police courts district, the Secretary of State, and as respects any other probation area, the probation committee of that probation area;

"probation officer" means a probation officer appointed under Part I of the Criminal Justice Act, 1925;

"remuneration" means salary, wages and emoluments;

"special superannuation enactment" means any of the following enactments or other instruments, namely—

9 Edw. 7. c. 48.

(*a*) the Asylums Officers' Superannuation Act, 1909 (as amended by any subsequent enactment);

16 & 17 Geo. 5. c. 59.

(*b*) section six of and the First Schedule to the Coroners (Amendment) Act, 1926;

(*c*) a local Act scheme;

(*d*) any rules or scheme relating to the superannuation of probation officers made under the Criminal Justice Act, 1925; and

(*e*) the rules regulating the fund known as the Insurance Committee Officers' Superannuation Fund;

"superannuation purposes" means, in relation to a person serving in any capacity or ceasing to serve in any capacity in order to undertake war service, the purposes of any enactment, scheme or rules providing for his superannuation as a person serving in that capacity;

"war service" means service, during the period of the present emergency, in any of the naval, military or air forces of the Crown, any employment during that period which the Minister considers may properly be treated for the purposes of this Act in the same manner as service in those forces, and any employment during that period in civil defence service which is not by virtue of section nine of this Act deemed for superannuation purposes to be employment by a local authority;

"war service pay," in relation to the remuneration which any person would have received if he had continued to serve in any capacity specified in the first column of the Schedule to this Act, means his pay (including marriage, family and other similar allowances) in respect of his war service, or, in a case where he ceased to serve not only in that capacity but also in any other such capacity or capacities in order to under-

take war service, an amount which bears the same proportion to his pay (including marriage, family and other similar allowances) in respect of his war service as the remuneration which he would have received if he had continued to serve in the first-mentioned capacity bears to the total remuneration which he would have received if he had continued to serve in both or all those capacities.

(2) The capacities specified in the first column of the Schedule to this Act which in this Act are referred to as superannuable capacities are those specified in paragraph 1, paragraphs 3 to 6 and paragraphs 8 to 15 of the first column of that Schedule.

Application to Scotland.

15.—(1) In the application of this Act to Scotland the modifications hereafter specified in this section shall be made.

(2) For references to the Minister and the High Court there shall be respectively substituted references to the Secretary of State and the Court of Session.

(3) For references to the Board of Education and a local education authority there shall be respectively substituted references to the Secretary of State and to an education authority.

(4) For references to the Local Government Superannuation Acts, 1937 and 1939, except in paragraph (*c*) of subsection (1) of section nine, there shall be substituted references to the Local Government Superannuation (Scotland) Acts, 1937 and 1939, and for references to the Local Government Superannuation Act, 1937, and to section five and section thirty-four thereof, there shall be respectively substituted references to the Local Government Superannuation (Scotland) Act, 1937, and to subsections (1) to (5) of section five and section twenty-nine thereof.

1 Edw. 8 & 1 Geo. 6. c. 69.

(5) The following section shall be substituted for section two :—

"2. Where—

(*a*) a medical officer of health of a county a proportion of whose salary and expenses is paid by the town council of a small burgh in pursuance of section thirty-five

19 & 20 Geo. 5. c. 25.

of the Local Government (Scotland) Act, 1929; or

(*b*) a sanitary inspector of a county a proportion of whose salary and expenses is paid by the town council of a small burgh in pursuance of any agreement between that council and the county council;

ceases to serve as such medical officer or sanitary inspector in order to undertake war service, and a person appointed in pursuance of section fifteen of the Public Health (Scotland) Act, 1897, acts temporarily in his place, the town council shall be liable to pay to the county council the like proportion of—

60 & 61 Vict. c. 38.

(i) any sums actually paid by the county council under section one of this Act to the person undertaking war service or to or for the benefit of his wife or other dependants; and

(ii) the salary of a person appointed as aforesaid."

(6) The following section shall be substituted for section eight:—

"8. Nothing in the last five foregoing sections shall apply to any person who is or is deemed to be a teacher within the meaning of the Superannuation Scheme framed in pursuance of the Education (Scotland) (Superannuation) Acts, 1919 to 1937."

(7) In section nine for the reference to contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1937, there shall be substituted a reference to service within the meaning of the Superannuation Scheme framed in pursuance of the Education (Scotland) (Superannuation) Acts, 1919 to 1937.

(8) Section ten of this Act shall have effect as if for the word "elected" there were substituted the words "nominated or elected."

(9) For the references to section five and section nine of the Criminal Justice Act, 1925, there shall be substituted a reference to section six of the Probation of Offenders (Scotland) Act, 1931, and the expressions "probation officer" and "probation authority" mean respectively a probation officer appointed and a probation committee constituted under the last-mentioned Act.

21 & 22 Geo. 5. c. 30.

(10) Subsection (4) of section four and subsection (3) of section six of this Act, and paragraphs 1 to 3, paragraphs 5 to 9 and paragraph 15 in the first column of the Schedule to this Act, shall not apply.

(11) For paragraph 11 in the first column of the Schedule to this Act, the following paragraph shall be substituted :—

"11. Registration officer within the meaning of the Local Government Superannuation (Scotland) Act, 1937."

(12) Where any sums are paid in pursuance of this Act to or in respect of a person who has ceased to serve as a registration officer in order to undertake war service and whose registration area was situate within the areas of two or more councils, those councils shall contribute towards those sums in such proportions as they may agree or, failing agreement, as may be determined by the Secretary of State.

(13) For paragraph 16 in the first column of the Schedule to this Act the following paragraph shall be substituted :—

"16. Teacher, officer or servant of the managers or governing body of a school or institution to the maintenance of which an education authority contributes under section eight or section nine of the Education (Scotland) Act, 1918." 8 & 9 Geo. 5. c. 48.

16. Notwithstanding anything in the Government of Ireland Act, 1920, the Parliament of Northern Ireland shall have power to make laws in respect of local and other authorities in Northern Ireland for purposes similar to the purposes of this Act. Provision as respects Northern Ireland. 10 & 11 Geo. 5. c. 67.

17.—(1) This Act may be cited as the Local Government Staffs (War Service) Act, 1939. Short title, commencement and extent.

(2) This Act shall be deemed to have come into operation at the beginning of the period of the present emergency.

(3) No provision of this Act, except the provisions of the last foregoing section, shall extend to Northern Ireland.

Sections 1, 3, 4, 7, 14, 15.

SCHEDULE.

CIVIL CAPACITIES TO WHICH ACT APPLIES AND APPROPRIATE AUTHORITY FOR PURPOSE OF SECTION ONE.

Civil capacity.	Appropriate authority for purpose of section 1.
1. Clerk of the peace or deputy clerk of the peace of a county.	The county council, or in the case of the county of London, the standing joint committee.
2. Clerk of the peace of a borough -	The borough council.
3. Coroner - - - - - -	The council by whom the coroner's salary is paid.
4. Employee of a local authority otherwise than in war service.	The local authority.
5. Whole-time justices' clerk who, by virtue of subsection (1) of section twenty of the Local Government Superannuation Act, 1937, is deemed for the purposes of that Act to be a contributory employee of a local authority.	The standing joint committee in the case of a clerk, or an employee of a clerk, to county justices, and the borough council in the case of a clerk, or an employee of a clerk, to borough justices.
6. Justices' clerk to whom a local Act scheme applies.	
7. Justices' clerk, not being such a clerk as is mentioned in either of the last two foregoing paragraphs.	
8. Employee of a whole-time justices' clerk who, by virtue of subsection (2) of section twenty of the Local Government Superannuation Act, 1937, is deemed for the purposes of that Act to be a contributory employee of a local authority.	
9. Employee of a justices' clerk to whom a local Act scheme applies.	
10. Probation officer - - -	The probation authority.

Civil capacity.	Appropriate authority for purpose of section 1.
11. Registration officer who is deemed by virtue of section twenty-seven of the Local Government Superannuation Act, 1937, to be an officer in the employment of a local authority.	The local authority.
12. Officer of an insurance committee appointed under the National Health Insurance Act, 1936 (including a committee formed by a combination of insurance committees under section ninety-four of that Act).	The insurance committee.
13. Employee of the Central Electricity Board.	The Central Electricity Board.
14. Employee of a joint electricity authority in relation to which the Local Government Superannuation Act, 1937, has effect as if the authority were a local authority required to maintain a superannuation fund under Part I of that Act.	The joint electricity authority.
15. Teacher, officer or servant appointed by the managers of a public elementary school maintained but not provided by a local education authority for elementary education.	The local education authority.
16. Teacher, officer or servant of an institution aided by a local education authority out of the proceeds of any rate.	
17. Teacher, officer or servant of an educational institution to which it is certified by the Board of Education that it is expedient that section one of this Act should apply notwithstanding any trust affecting the institution.	The managers or other governing body of the institution.

26 Geo. 5. & 1 Edw. 8. c. 32.

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