EXPLANATORY NOTE

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

These Regulations, which supersede the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1939, and the Local Government Superannuation (Transfer Value) (Scotland) Amendment Regulations, 1949, prescribe the method of calculating transfer values payable under sections 24 and 25 of the Local Government Superannuation (Scotland) Act, 1937. A transfer value is payable under section 24, unless only one superannuation fund is concerned, where a superannuable employee leaves employment under one local authority and within a limited period (normally twelve months) enters employment under another local authority. A transfer value is payable in certain cases under section 25 where a person who has been a whole-time officer employed by a local authority in a temporary capacity has left that employment and within a limited period enters other local government employment in which he then or later becomes a contributory employee or local Act contributor.

The method of calculation is with some variations, the method prescribed by the regulations previously in force and is based on (*a*) the age of the employee on the date when he ceased to hold his former employment (or, in the case of a person whose superannuation rights during a period of emergency are preserved under section 6 of the Superannuation (Miscellaneous Provisions) Act, 1948, during a longer period than twelve months, the date when he entered his new employment); (*b*) his remuneration in his former employment; and (*c*) the service which he would have been entitled to reckon for calculating a superannuation benefit if he had been entitled to one when he left his former employment.

1954 No. 1049

The Probation Officers and Clerks (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 the Fourth 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:—

PART I.—PRELIMINARY

Citation and commencement

1. These regulations may be cited as the Probation Officers and Clerks (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 Act of 1937" means the Local Government Superannuation Act 1937(b);

(a) 1 & 2 Eliz. 2. c. 25.

(b) 1 Edw. 8 & 1 Geo. 6. c. 68.

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

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

"clerk" means a person appointed to assist a probation officer in the performance of his duties either by a probation committee or the Secretary of State or, before the first day of July, 1944, by a probation officer;

"enactment" includes an instrument made under an enactment;

"the Minister" means the Minister of Housing and Local Government;

"the order of 1948" means the Probation Officers (Superannuation) Order, 1948(b);

"probation committee" has the same meaning as in the Criminal Justice Act, 1948(c).

(2) The Interpretation Act, 1889(d), 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.

PART II.—APPLICATION OF ACTS OF 1937 AND 1953 AND BENEFITS REGULATIONS

Interpretation of part II

3. In this part of these regulations, unless the context otherwise requires—

"the council", in relation to a probation committee, means the council which is responsible for defraying the expenses of the committee, or, where two or more councils contribute to the defraying of those expenses, each of the contributing councils;

"remuneration" means remuneration as defined by paragraph (5) of regulation 6 of these regulations, and includes, in relation to a period before the first day of August, 1949, remuneration within the meaning of the order of 1948.

Application of enactments

4.—(1) The Act of 1937, the Act of 1953 and the benefits regulations shall apply to the persons specified in paragraph (2) of this regulation, subject to the adaptations, modifications and exceptions specified in regulations 5 to 8 of these regulations, as if probation committees were local authorities mentioned in Part I of the First Schedule to the Act of 1937:

Provided that in their application to a part-time probation officer the said Acts and regulations shall apply as they apply to a part-time officer of a local authority who belongs to a class or description in respect of which the authority have passed a statutory resolution under paragraph (*b*) of subsection (2) of section 3 of the Act of 1937.

(2) The persons referred to in paragraph (1) of this regulation are—

(*a*) any whole-time probation officer;

(*b*) any whole-time clerk;

(a) S.I. 1954/1048, p. 1595 above. (b) S.I. 1948/1220 (Rev. XVIII, p. 685: 1948 I, p. 3330).
(c) 11 & 12 Geo. 6. c. 58. (d) 52 & 53 Vict. c. 63.

(*c*) any part-time probation officer who is or has at any time since the first day of July, 1948, been in receipt of remuneration of not less than £130 a year;

being an officer or clerk employed by a probation committee other than the probation committee for the City of London or the probation committee for the City of Manchester, but not being an officer who gave notice in accordance with the proviso to article 1 of the order of 1948 that he did not desire the provisions of that order to apply to him.

Provisions as to appropriate superannuation fund

5.—(1) The provisions of this regulation shall apply to a probation officer and a clerk specified in paragraph (2) of the last foregoing regulation in substitution for subsections (1) and (2) of section 4 of the Act of 1937.

(2) The appropriate superannuation fund in relation to contributory employees of an employing authority which is the probation committee for a single petty sessional division shall be—

(*a*) in the case of a borough petty sessional division, the fund maintained under the Act of 1937 by the council of the borough, or, where no fund is maintained thereunder by that council, the fund maintained thereunder by the council of the county in which the borough is situated;

(*b*) in the case of a county petty sessional division, the fund maintained under that Act by the council of the county in which the petty sessional division is situated:

Provided in either case that if the council is a constituent authority under a combination scheme the appropriate superannuation fund shall be the joint fund maintained under that scheme.

(3) The appropriate superannuation fund in relation to the contributory employees of an employing authority which is the probation committee for a combined area shall be the fund determined in accordance with the last foregoing paragraph in respect of any one of the petty sessional divisions comprising the combined area.

(4) Any question arising under this regulation as to the identity of the appropriate superannuation fund shall be determined in default of an agreement between the probation committee and the local authorities concerned, by the Minister.

Further adaptations, etc., of Act of 1937

6.—(1) In paragraph (*c*) of subsection (4) of section 3 of the Act of 1937, the reference to the age of compulsory retirement shall be construed, save as may be otherwise provided in rules made by the Secretary of State under the Fifth Schedule to the Criminal Justice Act, 1948, as a reference to the age of sixty-five years.

(2) Subsection (4) of section 10 of the Act of 1937 shall have effect as if it—

(*a*) required the probation 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 after receiving the notice appeal to the Minister,

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.

(3) In the application of subsection (5) of section 12 of the said Act to part-time service as a probation officer, the proportionately reduced period for which such part-time service shall be treated as though it were whole-time service shall—

(*a*) be determined by making a separate calculation in respect of each year of part-time service;

(*b*) be in respect of any year of part-time service the period which bears to a period of one year the same proportion as the remuneration received by the probation officer in the year of part-time service bears to the notional whole-time salary of a probation officer in respect of that year;

and the provisions of this paragraph shall apply proportionately to any period of part-time service of less than a year.

In this paragraph the expression "the notional whole-time salary of a probation officer", in relation to any year, means the sum determined in respect of that year in accordance with the schedule to these regulations.

(4) Notwithstanding anything in subsection (1) of section 30 of the said Act, a probation officer shall not be deemed to have been appointed in a temporary capacity for a period of not more than two years by reason only of the fact that his appointment is determinable within the said period unless it is confirmed by the Secretary of State.

(5) In subsection (1) of section 40 of the said Act the following definition shall be substituted for the definition of "remuneration":—

"'remuneration' means remuneration paid out of public funds in accordance with rules made by the Secretary of State under the Fifth Schedule to the Criminal Justice Act, 1948, but does not include payments for overtime, or any allowance paid to an officer to cover cost of office accommodation or clerk's assistance, or any travelling or subsistence allowance or other moneys to be spent, or to cover expenses incurred, for the purposes of the employment of the officer or clerk".

(6) In the said subsection (1) the following definition shall be substituted for the definition of "whole-time officer":—

"'whole-time officer' means an officer who devotes substantially the whole of his time to his duties as a probation officer or clerk and whose remuneration is paid wholly out of public funds, and includes a probation officer who immediately before the coming into operation of these regulations was, by virtue of the proviso to sub-paragraph (1) of paragraph 13 of the First Schedule to the order of 1948, deemed to be included in that expression".

Adaptations, etc., of Act of 1953

7.—(1) Subsection (2) of section 2, subsection (3) of section 17 and subsection (1) of section 18 of the Act of 1953 shall have effect as if they—

(*a*) required the probation 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 Minister,

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.

(2) In subsection (4) of section 2 of the said Act, references to the first superannuation regulations shall be construed as references to these regulations.

(3) 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 of the said Act to the passing of the Act shall be construed as a reference to the coming into operation of these regulations.

(4) Subsection (2) of section 11 and subsection (2) of section 12 of the said Act shall have effect as if after the words " the employment of the authority " in each of these subsections there were inserted the words " or of the coming into force of the first regulations made under paragraph 1 of the Fourth Schedule to this Act, whichever last occurs ".

(5) Any reference in section 12 of the said Act to section 11 thereof shall be construed as a reference to the said section 11 as adapted by these regulations.

Adaptation, etc., of benefits regulations

8. Regulation 7, regulation 12, paragraphs (4), (5) and (6) of regulation 18 and sub-paragraph (*a*) of paragraph (1) of regulation 19 of the benefits regulations shall have effect as if they—

(*a*) required the probation 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 Minister, 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.

PART III.—APPLICATION OF LONDON SUPERANNUATION ENACTMENTS

Interpretation of part III

9.—(1) In this part of these regulations, unless the context otherwise requires—

" the actuary " means such person, being a Fellow of the Institute of Actuaries, as shall be selected by the Council ;

" contributor " means a contributor to the fund ;

" the Council " means the London County Council ;

" the fund " means the superannuation fund maintained by the Council under the superannuation enactments ;

" the modification scheme " means the scheme made by the Council on the twenty-ninth day of November, 1938, under subsection (1) of section 26 of the Act of 1937 ;

" the scheme of 1939 " means the scheme prepared by the Council pursuant to the provisions of the London Council (General Powers) Act, 1891(a), and approved by the Council on the twenty-eighth day of March, 1939 ;

(a) 54 & 55 Vict. c. ccvi.

"the superannuation enactments" means the enactments and schemes relating to the superannuation of officers of the Council, and includes any scheme to be made by the Council under subsection (2) of section 3 or subsection (1) of section 22 of the Act of 1953, and any scheme to be made amending the modification scheme.

(2) References in the superannuation enactments to service under or employment by the Council shall, in the case of a person to whom those enactments are applied by this part of these regulations, be deemed to include service or employment in the Metropolitan Police Court area as a probation officer or clerk, and references therein to a person being or ceasing to be in the employment of the Council shall, in the case of such a person, be construed as references to that person being or ceasing to be employed in the said district as aforesaid.

(3) Any reference in the superannuation enactments to salary or wages or emoluments shall, in relation to a probation officer or clerk, be construed as a reference to remuneration payable out of the Metropolitan Police Fund.

Application of enactments

10. The superannuation enactments, as they apply to whole-time officers of the Council, (other than any provision thereof relating to the making of a scheme or the admission of persons to a superannuation fund) shall apply, subject to the adaptations, modifications and exceptions contained in this part of these regulations, to probation officers and clerks, being whole-time officers or clerks whose remuneration is payable out of the Metropolitan Police Fund other than officers who gave notice in accordance with the proviso to article 1 of the order of 1948 that they did not desire the provisions of that order to apply to them.

Adaptations, etc., of modification scheme

11. For the purposes of articles 11 and 12 of the modification scheme the expression "a person who is a contributory employee or local Act contributor under another local authority" shall be deemed to include a person who becomes a contributory employee or a local Act contributor under the provisions of these regulations or became such an employee or contributor under the provisions of part I of the order of 1948, and references in the said articles to a local authority shall be deemed to include a probation committee.

Adaptations, etc., of scheme of 1939

12.—(1) A probation officer shall, for the purposes of clause 5 of the scheme of 1939, be deemed to have been appointed to the permanent staff notwithstanding that he has been appointed for a preliminary period only under the Probation Rules, 1949(**a**), and that his appointment will not be effective for more than the said period unless within that period the appointment is confirmed, or the preliminary period prolonged, by the Secretary of State.

(2) Contributions payable under clause 7 of the said scheme shall be deducted from the amount payable to the contributor by way of remuneration and shall be paid into the fund by the Receiver.

(3) Clause 8 of the said scheme shall not apply.

(a) S.I. 1949/1328 (1949 I, p. 3508).

(4) The reference to the Comptroller in sub-paragraph (*b*) of paragraph (2) of clause 9 of the said scheme shall be construed as a reference to the Receiver.

(5) Clause 10 of the said scheme shall not apply.

(6) The rates of contributions to be paid into the fund by way of employer's contributions in respect of persons who become contributors to whom the superannuation enactments apply by virtue of this part of these regulations shall be such as are from time to time payable by the Council in respect of its officers under the provisions of the said clause 10.

(7) Contributions payable into the fund under the last foregoing paragraph shall be paid out of the Metropolitan Police Fund.

(8) Any surplus or deficiency in the fund disclosed in the periodical actuarial valuation under clause 27 of the said scheme and certified by the actuary to be referable to persons who become contributors to whom the superannuation enactments apply by virtue of this part of these regulations shall be dealt with in such manner as may be agreed between the Council and the Secretary of State.

(9) There shall be paid into the fund out of the Metropolitan Police Fund for the purpose of making good any deficiency disclosed and certified as aforesaid such sums as the Secretary of State may from time to time direct.

Miscellaneous adaptations, etc.

13.—(1) Any gratuity or any amount by way of benefit which under the superannuation enactments is to be made good to the fund shall be paid out of the Metropolitan Police Fund.

(2) Subject to paragraph (5) of this regulation, any discretion exercisable by the Council under the superannuation enactments shall, in relation to a person who becomes a contributor to whom the superannuation enactments apply by virtue of this part of these regulations, be exercised by the Council in such manner as shall be agreed between the Council and the Secretary of State.

(3) So much of paragraph (3) of regulation 7 of these regulations as relates to sections 11 and 12 of the Act of 1953, and paragraphs (4) and (5) of the said regulation 7, shall apply for the purposes of this part of these regulations.

(4) Any reference in the superannuation enactments to compulsory retiring age shall be construed, save as may be otherwise provided in rules made by the Secretary of State under the Fifth Schedule to the Criminal Justice Act, 1948, as a reference to the age of sixty-five years.

(5) Any matter relating to entitlement to a benefit under the provisions of the superannuation enactments arising on account of a person's permanent incapacity to discharge his duties by reason of infirmity of mind or body, or to any payment under section 18 of the Act of 1953 or in respect of injury or disease under provisions of the said enactments corresponding to regulation 7 of the benefits regulations, which is under the superannuation enactments a matter for the Council shall be a matter for the Secretary of State instead of the Council.

PART IV.—APPLICATION OF MANCHESTER SUPERANNUATION ENACTMENTS

Interpretation of part IV

14.—(1) In this part of these regulations, unless the context otherwise requires—

" the Act of 1920 " means the Manchester Corporation Act, 1920(**a**);

" the Act of 1930 " means the Manchester Corporation (General Powers) Act, 1930(**b**);

" actuary " has the meaning assigned to it in section 76 of the Manchester Corporation Act, 1934(**c**);

" contributor " means a contributor to the fund;

" the Corporation " means the Lord Mayor, Aldermen and Citizens of the City of Manchester;

" the Council " means the Manchester City Council;

" the fund " means the superannuation fund maintained by the Council under the superannuation enactments;

" the modification scheme " means the Manchester Corporation Superannuation Scheme, 1938, made by the Council under subsection (1) of section 26 of the Act of 1937;

" the probation committee " means the probation committee for the City of Manchester;

" remuneration " has the same meaning as in part II of these regulations;

" superannuation enactments " means the enactments and schemes relating to the superannuation of officers of the Council, and includes any scheme to be made by the Council under subsection (2) of section 3 or subsection (1) of section 22 of the Act of 1953, and any scheme to be made amending the modification scheme.

(2) References in the superannuation enactments to service under or employment by the Corporation or the Council shall, in the case of a person to whom those enactments apply by virtue of this part of these regulations, be deemed to include service under or employment by the probation committee, and references therein to a person being or ceasing to be in the service or employment of the Corporation or Council shall, in the case of such a person, be construed as references to that person being or ceasing to be employed by the probation committee.

(3) The superannuation enactments shall have effect, in the case of such a person as aforesaid, as if references therein to salary were references to remuneration within the meaning of this part of these regulations.

Application of enactments

15. The superannuation enactments, as they apply to whole-time officers of the Corporation or the Council, (other than any provision thereof relating to the making of a scheme or the admission of persons to a superannuation fund) shall apply, subject to the adaptations, modifications and exceptions contained in this part of these regulations, to probation officers and clerks, being whole-time officers or clerks whose remuneration is payable by the probation committee other than officers who gave notice in accordance with the proviso to article 1 of the order of 1948 that they did not desire the

(**a**) 10 & 11 Geo. 5. c. xcvii. (**b**) 20 & 21 Geo. 5. c. clxxviii.
(**c**) 24 & 25 Geo. 5. c. xcvii.

provisions of that order to apply to them, as if references to a local authority or to the Corporation or the Council were references to the probation committee.

Adaptations, etc., of Act of 1920

16.—(1) In section 58 of the Act of 1920 the reference to the age of sixty-five years shall be construed as a reference to that age or any such other age as may be provided in rules made by the Secretary of State under the Fifth Schedule to the Criminal Justice Act, 1948.

(2) Percentage amounts shall be deducted by the probation committee in accordance with subsection (2) of section 59 of the Act of 1920 from each and every payment made to a contributor by way of remuneration and shall be paid into the fund.

(3) In relation to a person to whom the superannuation enactments apply by virtue of this part of these regulations, any reference in the said enactments to the average amount of his salary shall be construed as a reference to the average amount of his remuneration as a whole-time officer.

(4) The amount to be paid by the probation committee into the fund by way of employer's contribution shall be the normal contribution certified in accordance with subsection (1) of section 69 of the said Act.

(5) Sections 73 to 76 of the said Act shall not apply.

Adaptations, etc., of modification scheme

17.—(1) For the purposes of articles 12 and 13 of the modification scheme the expression "a person who is a contributory employee or local Act contributor under a local authority" shall be deemed to include a person who becomes a contributory employee or a local Act contributor under the provisions of these regulations or became such an employee or contributor under the provisions of part I of the order of 1948, and references in the said articles to a local authority shall be construed accordingly.

(2) Any period of part-time service as a probation officer reckonable under the Act of 1937 shall, whether or not contributions were paid in respect thereof, be reckonable for all purposes of the superannuation enactments, other than those relating to eligibility for benefit, in accordance with the provisions of proviso (*a*) to paragraph (1) of the said article 12; and for the purposes of the said proviso the actual length of any such period of part-time service shall be deemed to be equal to the proportionately reduced period calculated in respect of that period of part-time service in the manner provided in paragraph (3) of regulation 6 of these regulations.

(3) Paragraph (1) of the said article 13 shall have effect as if at the end thereof there were added the following proviso:—

"Provided also that no period of part-time service as a probation officer which had been reckonable under the Act of 1937 shall be reckonable for the purposes of the local Act scheme under the provisions of this article at a length greater than the length at which the said period would have been reckonable under the provisions of the last foregoing article had the officer become subject to the local Act scheme within twelve months of the date on which he ceased to be a contributory employee."

(4) Article 14 of the said scheme shall not apply.

Miscellaneous adaptations, etc.

18.—(1) Sections 35, 38 and 39 of the Act of 1930 shall not apply.

(2) Any provision of the superannuation enactments which confers a discretion on the Council (except subsection (2) of section 18 of the Act of

1953) shall, in relation to a person to whom the superannuation enactments apply by virtue of this part of these regulations, have effect as if it—

(*a*) required the probation 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 Minister, 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.

(3) So much of paragraph (3) of regulation 7 of these regulations as relates to sections 11 and 12 of the Act of 1953, and paragraphs (4) and (5) of the said regulation 7, shall apply for the purposes of this part of these regulations.

PART V.—PROVISIONS GENERALLY APPLICABLE

Application of section 18 *of Act of* 1953 *to certain part-time officers*

19. Subsections (1) and (2) of section 18 of the Act of 1953 shall apply to or in respect of any part-time officer to or in respect of whom they would apply by virtue of these regulations if he were a whole-time officer as they would apply if he were a whole-time officer.

Meaning of "service"

20. For the purposes of any enactment applied by these regulations the expression "service" shall include, in addition to any service within the meaning assigned to that expression for the purposes of that enactment—

(*a*) any period which would have been reckonable as service by virtue of the order of 1948 if these regulations had not been made;

(*b*) in the case of a person who by virtue of the provisions of the order of 1948 was entitled to reckon service before the first day of July, 1948, any service as a clerk during which he devoted substantially the whole of his time to assisting the probation officer in the performance of the duties appertaining to his office or partly to that and partly to duties under a local authority.

Continuance of certain payments

21. Any sum which would have been payable, if the order of 1948 had continued in force, under sub-paragraph (2) of paragraph 11 of the first schedule thereto, sub-paragraph (1) of paragraph 8 of the second schedule thereto or sub-paragraph (2) of paragraph 5 of the third schedule thereto shall be payable in like manner and subject to the same assent (if any) as if that order had continued in force.

SCHEDULE

Notional whole-time salary of a probation officer.

The notional whole-time salary of a probation officer in respect of any year of part-time service shall be the amount set out in the second or third column, as the case may be, of the following Table opposite the entry in the first column thereof which includes the date on which the year of service commenced.

TABLE

Date on which year of service commenced	Men	Women
	£	£
On or before 31st December, 1914	120	80
1st January, 1915, to 31st December, 1919	156	104
1st January, 1920, to 30th June, 1926	225	135
1st July, 1926, to 30th June, 1937	275	210
1st July, 1937, to 30th June, 1944	330	290
1st July, 1944, to 30th November, 1946	375	330
1st December, 1946, to 31st March, 1954	485	420
On and after 1st April, 1954	620	555

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 provide as to the superannuation of probation officers and clerks.

Part II deals with probation officers and clerks employed by probation committees (other than those for the City of London and the City of Manchester) except those who elected that the provisions of the Probation Officers (Superannuation) Order, 1948, should not apply to them, and provides for the application to them of the Local Government Superannuation Acts of 1937 and 1953 and the regulations made under section 1 of the Act of 1953 with the adaptations, modifications and exceptions necessary to make them fit the special circumstances of such persons.

Part III deals with probation officers and clerks whose remuneration is payable out of the Metropolitan Police Fund, except those who elected that the provisions of the Probation Officers (Superannuation) Order, 1948 should not apply to them and provides for the application to them with the necessary adaptations, modifications and exceptions of the superannuation provisions applicable to whole-time officers of the London County Council.

Part IV deals with probation officers and clerks employed by the probation committee of the City of Manchester, except those who elected that the provisions of the Probation Officers (Superannuation) Order, 1948 should not apply to them and provides for the application to them with the necessary adaptations, modifications and exceptions of the superannuation provisions applicable to whole-time officers of the Manchester City Council.

Part V contains provisions applicable throughout England and Wales. Regulation 19 enables gratuities to be granted to part-time officers to whom the regulations do not otherwise apply.