1965 No. 537

PENSIONS

The Superannuation (Inner London Magistrates' Courts) Regulations 1965

Laid before Parliament in draft

Made - - - - 18*th March* 1965

Coming into Operation 1*st April* 1965

Whereas a draft of these Regulations has been laid before Parliament and has been approved by resolution of each House of Parliament:

Now, therefore, I, the Right Honourable Sir Frank Soskice, Q.C., M.P., one of Her Majesty's Principal Secretaries of State, in pursuance of section 24 of the Administration of Justice Act 1964(a), hereby make the following Regulations:—

1.—(1) The Metropolitan Police Staff (Superannuation) Acts 1875 to 1931(b), any enactments applied thereby and any instruments made under those Acts or enactments shall apply in relation to justices' clerks for the inner London area and other officers employed by the committee of magistrates; and any reference in the specified Act and instruments to employment or service as a member of the staff of the metropolitan police courts shall be construed as including a reference to service as such a clerk or officer (hereafter in these Regulations referred to as " inner London service "):

Provided that this Regulation shall not apply in relation to a person in respect of any period of service to which Regulation 2(1) of these Regulations applies.

(2) In this Regulation, the expression " specified Act and instruments " means—

(*a*) the Superannuation (Miscellaneous Provisions) Act 1948(c);

(*b*) the Orders made by the Secretary of State under the Metropolitan Police Staff (Superannuation) Acts 1875 to 1931, whether as originally enacted or as subsequently applied and extended;

(*c*) the Superannuation (Civil Service and Metropolitan Police Staff) Transfer Rules 1954(d) and the Superannuation (Transfers between Metropolitan Police Staffs and Local Government) Rules 1959(e); and

(*d*) the National Insurance (Modification of the Metropolitan Police Staffs Superannuation Provisions) Regulations 1961(f), as amended(g), and the National Insurance (Modification of the Metropolitan Police Staffs Superannuation Provisions) Regulations 1963(h).

(a) 1964 c. 42.
(b) 38 & 39 Vict. c. 28; 48 & 49 Vict. c. 68; 9 Edw. 7. c. 40; 21 & 22 Geo. 5. c. 12.
(c) 11 & 12 Geo. 6. c. 33.
(d) S.I. 1954/1723 (1954 II, p. 1520).
(e) S.I. 1959/1243 (1959 II, p. 2041).
(f) S.I. 1961/439 (1961 I, p. 1076).
(g) S.I. 1963/2117 (1963 III, p. 4701).
(h) S.I. 1963/1610 (1963 III, p. 3005).

2.—(1) Any justices' clerk for the inner London area or other officer employed by the committee of magistrates, who immediately before 1st April 1965 was a justices' clerk in the county of London or an officer employed by the County of London Magistrates' Courts Committee, and was in that capacity a contributor to the superannuation fund maintained by the London County Council, shall be entitled, in respect of any inner London service commencing on that day and continuing without a break of 12 months or more, to superannuation rights corresponding with those to which he was entitled in respect of his service before 1st April 1965 as such a clerk or officer as aforesaid and as if his inner London service were a continuation thereof; and for that purpose the provisions of the Schedule to these Regulations shall have effect in relation to such a clerk or officer (in that Schedule referred to as a " local government scheme employee ").

(2) A clerk or officer to whom this Regulation applies may before 1st July 1965, or at any time with the consent of the Secretary of State, give notice in writing to the committee of magistrates that he wishes Regulation 1 to apply in relation to him in respect of his future inner London service, and thereupon paragraph (1) of this Regulation shall cease to apply and he shall be treated for the purposes of the Superannuation (Transfers between Metropolitan Police Staffs and Local Government) Rules 1959, as amended by these Rules, as if he had ceased to be employed in local government service and had become employed in police service within the meaning of Rule 4(1) of those Rules with effect from the day of giving such notice, and those Rules shall apply, with any necessary modifications, as if that notice had been a notice under Rule 4(1)(*c*) of those Rules.

3. For the words " the Chief Magistrate of the metropolitan police courts ", at the end of the definition of " the appropriate authority " in Regulation 2(1) of the Superannuation (Transfers between Metropolitan Police Staffs and Local Government) Rules 1959, there shall be substituted the words " the committee of magistrates for the inner London area ".

4. The Justices' Clerks and Assistants (Superannuation) (London) Regulations 1959(**a**) are hereby revoked.

5.—(1) References in these Regulations to any enactment shall, except in so far as the context otherwise requires, be construed as references to that enactment as amended by or under any subsequent enactment.

(2) The Interpretation Act 1889(**b**) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

6. These Regulations may be cited as the Superannuation (Inner London Magistrates' Courts) Regulations 1965 and shall come into operation on 1st April 1965.

Frank Soskice,
One of Her Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
18th March 1965.

(**a**) S.I. 1959/1105. (**b**) 52 & 53 Vict. c. 63.

Rule 2(1)

SCHEDULE

SUPERANNUATION OF LOCAL GOVERNMENT SCHEME EMPLOYEES

1. The Local Government Superannuation Act 1937(a) (hereafter in this Schedule referred to as " the Act of 1937 "), the Local Government Superannuation Act 1953(b) (hereafter in this Schedule referred to as " the Act of 1953 ") and the regulations made thereunder shall apply to any local government scheme employee subject to the adaptations, modifications and exceptions mentioned in the following provisions of this Schedule, and as if the committee of magistrates were a local authority mentioned in Part I of Schedule 1 to the Act of 1937.

2. The appropriate superannuation fund for the purposes of the Act of 1937 in relation to any local government scheme employee shall be the fund maintained by the Greater London Council or, as the case may be, the fund maintained under any combination scheme under section 2 of the Act of 1937 in which that Council is a constituent member.

3.—(1) The Act of 1937, the Act of 1953 and the regulations made thereunder shall have effect in relation to any local government scheme employee as if they—

(*a*) required him to make contributions at the like rate and conferred on him rights corresponding with those which he would have enjoyed had he continued to hold the office or employment which he held immediately prior to 1st April 1965, and

(*b*) conferred on the committee of magistrates, subject to sub-paragraph (3) of this paragraph, any discretionary power, or the right or duty to form an opinion, which was exercisable by the County of London Magistrates' Courts Committee under paragraph (*c*) of section 20 of the London County Council (General Powers) Act 1955(c), or the London County Council (Superannuation) Scheme 1958 as modified by the Justices' Clerks and Assistants (Superannuation) (London) Regulations 1959,

in lieu of any rights, obligations and powers conferred or imposed by the said Acts and regulations:

Provided that—

(i) nothing in this paragraph shall preclude the application to any local government scheme employee of any provision of the said Acts and regulations which is expressed to apply to both contributory employees and local Act contributors; and

(ii) section 35 of the Act of 1937 shall apply to any question concerning the rights and liabilities of any local government scheme employee under these Regulations.

(2) Where a local government scheme employee ceases to be employed by the committee of magistrates and subsequently enters a new employment in circumstances in which he is entitled to reckon for superannuation purposes service in his previous employment, that service shall be reckonable in the like manner and the employee shall in other respects have the like rights and be subject to the like obligations as if he had moved to the new employment from the employment which he held immediately before 1st April 1965.

(3) Upon the exercise or performance of any such discretion, right or duty as is referred to in sub-paragraph (1)(*b*) of this paragraph, the committee of magistrates shall, in lieu of complying with paragraphs (2) to (5) of Regulation 8 of the said Regulations of 1959, report any decision taken by them to

(a) 1 Edw. 8 & 1 Geo. 6. c. 68. (b) 1 & 2 Eliz. 2. c. 25.
(c) 4 & 5 Eliz. 2. c. xxix.

the Secretary of State, and the decision shall not have effect until it has been approved by the Secretary of State.

4.—(1) Any sum payable by or to the committee of magistrates as employing authority under the Act of 1937, the Act of 1953 or any regulation made thereunder or under rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 or which would be so payable but for Regulation 12(6) of the Local Government Superannuation (Administration) Regulations 1954(a) shall be payable by or to the Receiver for the Metropolitan Police District; and the powers conferred by section 6(3) of the Act of 1937 to deduct contributions from remuneration shall in the case of any local government scheme employee be exercisable by the said Receiver.

(2) In relation to a local government scheme employee, section 18 of the Act of 1953 shall apply subject to the modification that at the end of proviso (i) to subsection (1) there shall be inserted the words " but shall be paid by the Receiver for the Metropolitan Police District ".

(3) Section 36(6) of the Act of 1937 shall have effect as if it provided that regulations made thereunder may provide for anything to be done by or to the Receiver for the Metropolitan Police District where apart from this paragraph they could provide for it to be done, in the case of a local government scheme employee, by or to the committee of magistrates.

5. Subject to the following provisions of this Schedule, any provisions contained in or made under—

(*a*) the Act of 1937, the Act of 1953 or any regulation made thereunder as applied by paragraph 1 of this Schedule,

(*b*) the Superannuation (Miscellaneous Provisions) Act 1948, and

(*c*) the National Insurance Act 1959(b),

shall, in relation to any local government scheme employee, have effect as if his employment immediately before and immediately after 1st April 1965 were one continuous employment.

6.—(1) Notwithstanding anything in paragraph 3(1) of this Schedule, section 6(5) of the Act of 1937 (which relates to the payment of superannuation contributions on the reduction or discontinuance of remuneration) shall apply to any local government scheme employee who on or after 1st April 1965 suffers a reduction of remuneration which is attributable to anything done by or under the Administration of Justice Act 1964 or any instrument made under the Act.

(2) Where under section 6(5) of the Act of 1937 as applied by the last foregoing paragraph an employee pays contributions to a superannuation fund as if his remuneration had not been reduced he shall be deemed, for the purposes of any rights enjoyed by him under these Regulations to have received the remuneration which he would have received but for the reduction.

7. The committee of magistrates shall consider and decide the rights to which any local government scheme employee is entitled under paragraphs 3 and 6 of this Schedule and shall inform him in writing of their decision; and Regulations 11(2), 20, 21 and 22 of the Local Government Superannuation (Administration) Regulations 1954 shall apply in relation to any matter so decided.

8. Where immediately before 1st April 1965 it was the prevailing practice of the County of London Magistrates' Courts Committee to exercise beneficially (that is to say, to secure the making of payments or increased pay-

(a) S.I. 1954/1192 (1954 II, p. 1570). (b) 7 & 8 Eliz. 2. c. 47.

ments) any discretionary power exercisable by them under any enactment it shall be the duty of the committee of magistrates in relation to a local government scheme employee to exercise that power (or any corresponding power under statutory provisions relating to pensions for the time being in force) in a way which is no less beneficial than that practice; and section 35 of the Act of 1937 shall apply to any question arising under this paragraph.

9. Any period of service or employment prior to 1st April 1965 of a local government scheme employee which would have been treated as service for the purposes of the London County Council (Superannuation) Scheme 1958 if these Regulations had not been made shall be treated as service for the purposes of the Act of 1937.

10. Notwithstanding the revocation by these Regulations of the Justices' Clerks and Assistants (Superannuation) (London) Regulations 1959 and without prejudice to the general application of section 38 of the Interpretation Act 1889, any sum which would have been payable under the London County Council (Superannuation) Scheme 1958 as modified by the said Regulations of 1959 into the superannuation fund maintained by the London County Council shall be payable as if these Regulations had not been made but shall be paid into the superannuation fund maintained by the Greater London Council or, as the case may be, the superannuation fund maintained under any combination scheme in which that Council is a constituent member.

EXPLANATORY NOTE

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

These Regulations make provision for the superannuation of the justices' clerks for the inner London area and other officers employed by the committee of magistrates for the inner London area. Regulation 1 extends to such clerks and officers the scheme of superannuation, under the Metropolitan Police Staff (Superannuation) Acts 1875 to 1931, which in the past has applied to the staffs of the metropolitan police courts. Regulation 2 and the Schedule make provision, however, preserving the superannuation rights of any of the clerks and officers concerned who were justices' clerks in the county of London, or employed by the County of London Magistrates' Courts Committee, before 1st April 1965. Such a person will continue to be subject to the contributory scheme of superannuation to which he was previously subject, unless he elects under Regulation 2(2) to transfer to the metropolitan police staff scheme. In the latter case, he will have the benefit of the provisions for transfer contained in the Superannuation (Transfers between Metropolitan Police Staffs and Local Government) Rules 1959 (Regulation 2(2)).