STATUTORY INSTRUMENTS

1970 No. 1021

PENSIONS

The Superannuation (Judicial Offices) Rules 1970

Made - - -	10*th July* 1970
Laid before Parliament	17*th July* 1970
Coming into Operation	1*st August* 1970

The Lord Chancellor, with the consent of the Minister for the Civil Service, in exercise of the powers conferred on him by section 39A of the Superannuation Act 1965**(a)** (inserted in that Act by section 30 of the Administration of Justice Act 1969**(b)**), hereby makes the following Rules:—

Citation and Commencement

1. These Rules may be cited as the Superannuation (Judicial Offices) Rules 1970 and shall come into operation on 1st August 1970.

Interpretation

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

"authority" means, in relation to an office, the Crown or other authority liable under any enactment to pay benefits;

"benefits" means superannuation benefits payable to, or in respect of, a person who has held an office;

"judicial office remunerated out of central funds" has the same meaning as in section 39A(6) of the Superannuation Act 1965;

"judge" means a person who holds, or has held, an office;

"office" means a judicial office in respect of which benefits are payable under any enactment but does not, in relation to any judge, include any such office if the Superannuation Act 1965 applies to him in respect of his service in that office;

"terminal date" means the date on which a judge ceases to hold his last office.

(2) The Interpretation Act 1889**(c)** shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(3) Any reference in these Rules to the provisions of any enactment shall (unless the context otherwise requires) be construed as a reference to those provisions as amended or re-enacted by any subsequent enactment.

(a) 1965 c. 74. (b) 1969 c. 58. (c) 1889 c. 63.

Application of Rules

3.—(1) Subject to paragraph (2) of this rule, these Rules shall apply to, or in respect of, a judge who—

(*a*) has been continuously employed either—

(i) in two or more offices mentioned in the Schedule to these Rules, or

(ii) in one or more such offices and one or more judicial offices remunerated out of central funds; and

(*b*) retires from, or dies while still serving in, the last of those offices in circumstances in which benefits are payable under the enactments relating to service in that office (or would be so payable if he had served therein for a minimum qualifying period); and

(*c*) elects (or, if he has died, whose personal representatives elect) that these Rules shall apply to him:

Provided that neither the office of Presiding Judge of the Court of Passage of the City of Liverpool nor the office of Chairman or Deputy Chairman of Quarter Sessions for the County of Lancashire shall be treated as falling within subparagraph (*a*) above until such time as the benefits payable in respect of service in either of those offices respectively are, in the opinion of the Lord Chancellor, analogous to the benefits payable in respect of service in the other offices mentioned in the Schedule to these Rules.

(2) These Rules shall not apply to a judge—

(*a*) by or in respect of whom an election is made under section 4 of the Judicial Pensions Act 1959(**a**) (which makes provision for judges appointed to high judicial office after service in other judicial offices); or

(*b*) who, being subject to a compulsory retiring age in respect of his last office, retires therefrom (otherwise than on grounds of ill-health) before reaching that age.

Mode of Making Election

4. An election under these Rules shall not be effective unless it is made—

(*a*) in the case of a judge who retires from his last office—

(i) not later than three months after his retirement, or

(ii) if he dies within that period without having made an election, within three months of his death or within such longer period as the Lord Chancellor may in a particular case allow; or

(*b*) in the case of a judge who dies while serving in his last office without having made an election, within three months of his death or within such longer period as the Lord Chancellor may in a particular case allow.

Reckoning of Service

5.—(1) For the purpose of determining whether a judge's employment in two offices has been continuous, no account shall be taken of any interval not exceeding 31 days (or such longer interval as the Lord Chancellor may in a particular case allow) between his ceasing to hold the first of those offices and his entering upon the second.

(2) Where a judge who has been employed continuously in two or more

(**a**) 8 & 9 Eliz. 2 c. 9.

offices and the enactments relating to benefits in respect of service in the last of those offices enable service in any earlier office to be aggregated with service in the last office, he shall be deemed for the purposes of these Rules to have been employed in that last office throughout his period of aggregable service.

Calculation of Benefits

6.—(1) The following provisions of this rule shall apply for calculating the benefits payable in the case of a judge by or in respect of whom an election is made under these Rules.

(2) In the case of a judge who has served continuously in not more than two offices—

(*a*) if at the terminal date the salary of the first office is less than or equal to the salary of the second, the benefits payable shall be those which would have been payable if he had continued to serve in the first office until the terminal date;

(*b*) if at the terminal date the salary of the second office is less than the salary of the first, the benefits payable shall be whichever of the following are the more favourable—

(i) the benefits which would have been payable if he had served throughout in the second office, or

(ii) the benefits which would have been payable if he had retired from the first office on grounds of ill-health on the date when he ceased to hold that office.

(3) In the case of a judge who has served continuously in more than two offices—

(*a*) no account shall be taken of his service in any office other than the last three;

(*b*) paragraph (2) of this rule shall apply as if the judge had served in only two offices on whichever of the following assumptions is the most favourable to him—

(i) service in the first of his last three offices is ignored;

(ii) service in his last office is ignored;

(iii) service in his last office but one is deemed to have been service in his last office.

(4) Where an office in which a judge has served ceases to exist before the terminal date, then, for the purpose of calculating the benefits payable, the salary of that office shall be taken to be such as may be determined by the Lord Chancellor, with the concurrence of the Minister for the Civil Service, to be the salary which would have been payable in respect of that office if it had continued to exist at the terminal date.

Payment of Benefits

7.—(1) Any benefits payable in consequence of an election under these Rules shall be paid by the authority liable for the payment of benefits in respect of the last of the offices in which the judge served, whether or not his service in that office is taken into account under rule 6 for the purpose of calculating the benefits so payable.

(2) Where service in any earlier office has been taken into account for the purpose of calculating the amount of such benefits, the last-mentioned authority shall be entitled to recover from any authority liable for the payment of benefits in respect of service in that earlier office a contribution which bears to the total amount of benefits payable the same proportion as the period of the judge's service in the earlier office bears to the total period of service in respect of which benefits are payable.

(3) Where benefits are payable under these Rules in respect of a judge's service in an office, no other benefits shall be payable in respect of that service.

Dated 8th July 1970.

Hailsham of St. Marylebone, C.

Consent of the Minister for the Civil Service given under his Official Seal on 10th July 1970.

(L.S.)

K. H. McNeill,
Authorised by the
Minister for the Civil Service.

SCHEDULE

Rule 3 — *Judicial Offices*

Recorder of London

Common Serjeant

Additional Judge of the Central Criminal Court

Recorder of Liverpool

Recorder of Manchester

Assistant Judge of the Mayor's and City of London Court

Presiding Judge of the Court of Passage of the City of Liverpool

Chairman or Deputy Chairman of a Court of Quarter Sessions where under any enactment (whether passed before or after the Superannuation Act 1965) a person may qualify for a pension by virtue of service in that office

Stipendiary Magistrate in England or Wales, other than Metropolitan Stipendiary Magistrate

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules provide for a person who has held both a judicial office remunerated out of central funds and one remunerated out of local funds to elect that the whole of his judicial service shall, subject to the conditions specified in the Rules, be aggregated for the purposes of determining his superannuation benefits. Where such an election is made, the Rules provide that the benefits are to be payable by the last authority with which the judge served and that such authority is to be entitled to recover from any earlier authority with which there was relevant service a contribution proportionate to the length of the judge's service with that authority.

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