(4) WAR SERVICE

The Superannuation (War Service) Regulations, 1948

1948 No. 1255

Made - - - -	*10th June,* 1948
Laid before Parliament	*15th June,* 1948
Coming into Operation	*1st August,* 1948

The Lords Commissioners of His Majesty's Treasury in exercise of the powers conferred upon Them by sub-section (2) of Section 1 of the Superannuation Act, 1946(a), (hereinafter referred to as " the Act ") and of all other powers enabling Them in that behalf hereby make the following Regulations:—

1.—(1) These Regulations may be cited as the Superannuation (War Service) Regulations, 1948.

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

(3) These Regulations shall come into force on the 1st day of August, 1948.

2. In these Regulations

(i) " war service " means whole time service on or after the third day of September, 1939, in the armed forces of the Crown, in the merchant navy or the mercantile marine, or in any of the women's services specified in the First Schedule to the Act;

(ii) " non-effective pay " includes naval, military or air force pensions, retired pay, and gratuities (other than war gratuities, to which section twenty-three of the Finance (No. 2) Act, 1945(c), which exempts war gratuities from income tax, applies);

(iii) " Excess remuneration " means in relation to a retired officer of the armed forces of the Crown who is re-employed in those forces, any service pension drawn in respect of such period of re-employment, or any addition to the normal pay attaching to the post in which the officer is re-employed which is granted by reason of the officer's former employment in those forces;

(iv) " prescribed " means prescribed by the Treasury.

3. Where a person has received non-effective pay or excess remuneration in respect of any part of his war service, then that part of his war service shall not be treated under section 1 of the Act as service in an unestablished capacity (except for counting for the purposes of so much of section 4 of the Superannuation Act, 1887(d), as requires a minimum period of service as a condition for the grant of a gratuity), unless

(*a*) that person makes an application to the Treasury in the prescribed form within six months of the date when he was first employed in the civil service of the State or of the date of the coming into force of these Regulations (whichever is the later) or within such further time as the Treasury, having regard to the circumstances of the case, may allow, and

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(a) 9 & 10 Geo. 6. c. 60.
(b) 52 & 53 Vict. c. 63.
(c) 9 & 10 Geo. 6. c. 13.
(d) 50 & 51 Vict. c. 67.

(*b*) that person states in his application that he has refunded, or is willing to refund, any non-effective pay or excess remuneration in respect of any part of his war service which he desires to be treated under Section 1 of the Act as service in an unestablished capacity and that he surrenders his right to any further payment of such non-effective pay or excess remuneration, and

(*c*) that person authorises any consequent adjustment of the payment of non-effective pay or excess remuneration as from the date when it first became due.

4.—(1) Where such adjustment as aforesaid involves the repayment of any sum, the application shall not be effective until repayment is made, provided that if the person dies before repayment is completed, the Treasury may deduct any sum outstanding from any award in respect of that person under the Superannuation Acts, 1834 to 1946, in such manner as they think fit and pay over in completion of repayment the sum so deducted to the credit of the Vote of the Department to which the repayment is due.

(2) Where repayment of any sum falls to be made to any Department by instalments, the application shall not be effective until the Department to which the payment is due has certified to the Treasury that repayment is complete. If repayment is not complete within two years of the date of the application then the Treasury may declare the application to be null and void.

Dated this 10th day of June, 1948.

J. W. Snow,
Joseph Henderson,
Two of the Lords Commissioners
of His Majesty's Treasury.

EXPLANATORY NOTE

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

Section 1 of the Superannuation Act, 1946, provided that where a person who had had certain forms of war service since 2nd September, 1939, subsequently entered the Civil Service of the State, then the period of war service might be reckonable for the purposes of the Superannuation Acts as unestablished Civil Service (which would mean that if the individual was not established in the Civil Service it would reckon in full for the purpose of retiring gratuity, or, if he was established, it would reckon as to one-half for the purpose of pension). Sub-section (2) of that Section provided for Treasury Regulations to secure that the same period of service did not count both for the purpose of Civil Service gratuity or pension, and for the purposes of Service non-effective pay or extra remuneration in lieu of pension.

The present Regulations accordingly provide that, if an individual has received any non-effective pay (or extra remuneration in lieu of pension) in respect of his war service, then he must refund this in order that the period of War Service may be reckonable for purposes of Civil Service pension or gratuity.