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 (Reckoning of Service on Transfer) (Scotland) Regulations, 1939, prescribe the manner in which account is to be taken of previous service in computing the contributing service of a local government employee who, within 12 months after leaving employment in which he was a local Act contributor (or within any longer period allowed under section 6 of the Superannuation (Miscellaneous Provisions) Act, 1948), becomes a contributory employee. The Regulations provide in general for the aggregation with contributing service in his new employment of service which the employee would have been entitled to reckon as service or as a period of contribution for the purpose of calculating a benefit under the local Act scheme if he had been entitled to a benefit when he left his old employment. If, however, the employee was buying the right to reckon additional years of service, the right to reckon as service or as a period of contribution for the purposes of the local Act scheme a period not otherwise reckonable, or the right to reckon a period of service at an enhanced value for the purpose of calculating a benefit under the local Act scheme, aggregation of the additional years of service or other period of service (at the length at which it would have counted if payment had been completed under the local Act scheme) is made conditional on continuation of payments by the employee.

1954 No. 1238

The Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) Regulations, 1954

Made - - - -	*20th September*, 1954
Laid before Parliament	*24th September*, 1954
Coming into Operation	*1st October*, 1954

The Minister of Housing and Local Government, in exercise of his powers under subsection (2) of section 31 and subsection (6) of section 36 of the Local Government Superannuation Act, 1937(a), as amended by the Local Government Superannuation Act, 1953(b), and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) 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 following expressions have the meanings hereby assigned to them—

"the Act of 1937" means the Local Government Superannuation Act, 1937;

"the Act of 1946" means the National Insurance Act, 1946(c);

(a) 1 Edw. 8 & 1 Geo. 6. c. 68. (b) 1 & 2 Eliz. 2. c. 25.
(c) 9 & 10 Geo. 6. c. 67.

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

"added years", in relation to any person, means any additional years of service which that person is entitled to reckon under—

(*a*) regulation 12 of the benefits regulations or under that regulation as applied by regulations made under paragraph 2 of the Third Schedule to the Act of 1953 (which relates to justices' clerks and their staffs) or paragraph 1 of the Fourth Schedule to the Act of 1953 (which relates to probation officers and their staffs); or

(*b*) regulations made by the Minister under paragraph (*b*) of subsection (1) of section 13 of the Act of 1937 (which relates to the reckoning of service on a change of employment) or by the Minister and Secretary of State acting jointly under subsection (1) of section 38 of the Act of 1937 and subsection (1) of section 36 of the Local Government Superannuation (Scotland) Act, 1937(a) (which relate to reciprocal arrangements between England and Scotland);

(*c*) any similar provision contained in a local Act or local Act scheme or in any such scheme as adapted by regulations made under paragraph 6 of the Third Schedule or paragraph 1 of the Fourth Schedule to the Act of 1953;

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

"death grant" means a death grant as defined in regulation 2 of the benefits regulations or a similar grant (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme;

"enactment" includes an enactment contained in an order, regulation, rule or other instrument having effect by virtue of an Act;

"injury allowance" means an injury allowance as defined in regulation 2 of the benefits regulations or a similar allowance (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme;

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

"short service grant" means a short service grant as defined in regulation 2 of the benefits regulations or a similar grant (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme;

"superannuation allowance" includes a benefit under the benefits regulations, being a benefit by way of annual amounts such as is mentioned in paragraph (*a*) or (*c*) of subsection (3) of section 1 of the Act of 1953;

"widow's pension" means a widow's pension as defined in regulation 2 of the benefits regulations or a similar pension (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme.

(2) 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.

(3) The Interpretation Act, 1889(c), applies to the interpretation of these regulations as though these regulations and the regulations hereby revoked were Acts of Parliament.

(a) 1 Edw. 8 & 1 Geo. 6. c. 69. (b) S.I. 1954/1048, p. 1595 above. (c) 52 & 53 Vict. c. 63.

Revocation

3. The Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) Regulations, 1939(a), are hereby revoked.

Reduction of superannuation allowance

4.—(1) If a person entitled to a superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies has entered or enters further employment with any local authority he shall not be entitled to receive in respect of any period during which he holds his new employment any greater sum in respect of superannuation allowance than the amount, if any, by which the emoluments of his new employment for that period fall short of the remuneration of the employment in relation to which he became entitled to the allowance, computed, in the manner described in the next succeeding paragraph, for a period of the same length, and the allowance shall be reduced accordingly:

Provided that if concurrently with any employment in relation to which he became entitled to a superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies, he held, within the period of twelve months ending on the day on which he became entitled to that allowance, any other employment with any local authority (hereinafter called a "concurrent employment") then if either—

(*a*) before becoming entitled to the aforesaid allowance he ceased to hold a concurrent employment without having become entitled in relation thereto to such a superannuation allowance as aforesaid and after becoming entitled to the aforesaid allowance has entered or enters further employment with any local authority within twelve months after ceasing to hold the concurrent employment; or

(*b*) after becoming entitled to the aforesaid allowance he has ceased or ceases to hold a concurrent employment without having become entitled in relation thereto to such a superannuation allowance as aforesaid and thereafter has entered or enters further employment with any local authority,

the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies shall—

(i) not be reduced in respect of any period in relation to his new employment unless during that period he spends in his new employment a time materially greater than the time which he spent in the concurrent employment during a period of the same length ending on the day on which he ceased to hold that concurrent employment;

(ii) in respect of any period during which he spends in his new employment a time materially greater than the time which he spent in the concurrent employment during a period of the same length ending on the day on which he ceased to hold that concurrent employment, be reduced only to the extent by which the aggregate of the aforesaid allowance and the emoluments of his new employment exceeds the aggregate of the remuneration of the employment in relation to which he became entitled to the aforesaid allowance, calculated for a period of the same length, and the emoluments of the concurrent employment calculated for a period of the same length ending on the day on which he ceased to hold that concurrent employment.

(a) S.R. & O. 1939/53 (Rev. XVII, p. 830: 1939 II, p. 2623).

(2) For the purpose of the last foregoing paragraph a person's remuneration shall be computed, in so far as it consisted of or comprised salary, wages or other emoluments whether in money or in kind receivable by the employee at a fixed rate, at the rate at which it was payable immediately before he ceased to hold the employment in respect of which he became entitled to the superannuation allowance, and in so far as it consisted of or comprised fees and other emoluments not of a fixed nature at the average rate at which he received those fees and other emoluments during the three years immediately before he ceased to hold the aforesaid employment or, if he was not entitled during the whole of that period to receive those fees and other emoluments, at the average rate for the period during which, within the said period of three years, he was entitled to receive them.

(3) For the purposes of paragraphs (1) and (2) of this regulation a person who, on reduction or discontinuance of his remuneration contributed under subsection (5) of section 6 of the Act of 1937 as if his remuneration had not been reduced or discontinued and a person whose remuneration was reduced or discontinued by reason of his absence from duty owing to ill-health or injury shall—

(*a*) in so far as his remuneration at the time of its reduction or discontinuance consisted of or comprised salary, wages or other emoluments whether in money or kind receivable at a fixed rate, be deemed to have received the remuneration which he would have received but for the reduction or discontinuance; and

(*b*) in so far as his remuneration at the time aforesaid consisted of or comprised fees and other emoluments not of a fixed nature be deemed to have continued to receive those fees and other emoluments at the average rate at which he received them during the three years immediately before the said reduction or discontinuance or, if he was not entitled during the whole of that period to receive those fees and other emoluments, at the average rate for the period during which, within the said period of three years, he was entitled to receive them.

(4) Where in relation to any person two or more superannuation allowances to which subsection (1) of section 31 of the Act of 1937 applies fall to be reduced under the provisions of this regulation each such allowance shall be reduced in proportion to its amount.

(5) For the purposes of paragraph (1) of this regulation the period to be taken into account in determining whether any reduction of a superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies is required is each period in respect of which an instalment of that allowance is, subject to the provisions of this regulation, payable.

(6) Notwithstanding any previous provision of these regulations, where an instalment of a superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies is payable in respect of a period beginning before but ending after the date of coming into operation of these regulations that instalment shall be subject to reduction in the manner in which it would have been so subject if these regulations had not been made.

Adjustment of superannuation rights on cessation of further employment of persons entitled to superannuation allowance

5.—(1) Subject as hereinafter provided if any person entitled to a superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies has entered or enters further employment with any local authority and is in his new employment a contributory employee or local Act contributor, then, on his ceasing to hold that employment the service in respect of which he became entitled to the aforesaid allowance shall be reckoned

as service for the purpose of ascertaining whether he is qualified for any benefit under the benefits regulations or under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme as the case may be, and, if he is so qualified, he shall be entitled to receive at his option either—

(*a*) that benefit in addition to the superannuation allowance to which he had already become entitled ; or

(*b*) a benefit (hereinafter called a "combined benefit") calculated under the superannuation provisions applicable to him in his new employment by reference both to service in that employment and to the service taken into account in the calculation of the superannuation allowance to which he had already become entitled:

Provided that if—

(i) under the superannuation provisions applicable to him in his new employment a combined benefit would be calculated (otherwise than by reason of his being in that employment exempt from or subject to provisions for the reduction of superannuation benefits on account of or in relation to the Act of 1946) in some other manner than that in which the superannuation allowance to which he had already become entitled was calculated ; or

(ii) he is entitled in respect of his former employment to an injury allowance whether alone or in addition to any other benefit ; or

(iii) he is qualified in respect of his new employment for an injury allowance whether alone or in addition to any other benefit ; or

(iv) in his new employment he is a local Act contributor,

he shall not be entitled to exercise the option to which the preceding provisions of this regulation refer but shall be entitled to receive a benefit calculated under the superannuation provisions applicable to him in his new employment in addition to the superannuation allowance to which he had already become entitled.

(2) For the purposes of sub-paragraph (*b*) of the last foregoing paragraph "service" includes—

(*a*) added years ;

(*b*) if the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies was granted in consequence of permanent ill-health or infirmity of mind or body and was calculated by reference to a minimum fraction of remuneration, a number of years equal to the numerator of that fraction ;

(*c*) any period treated as service under subsection (3) of section 2 of the Midwives Act, 1936(**a**) (which relates to the pensions payable to certain midwives) ;

(*d*) any period of years by reference to which an additional benefit has been granted under regulation 13 of the benefits regulations (which relates to additional compensatory benefits) or under any other enactment to a person to whom subsection (1) of section 16 of the Act of 1937 (which relates to female nurses, midwives and health visitors) applies ; and

(*e*) any other notional increase or extension of service.

(**a**) 26 Geo. 5 & 1 Edw. 8. c. 40.

Provisions with respect to combined benefits

6. Where under the last foregoing regulation a person elects to receive a combined benefit—

(*a*) if the combined benefit includes a lump sum payment that payment shall be reduced by the amount of any lump sum payment received by him in conjunction with the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies ;

(*b*) if the aforesaid allowance included in respect of non-contributing service an annual amount calculated at a fraction larger than the standard fraction specified in the scale of allowances applicable to the person, that larger fraction shall in respect of the same non-contributing service be used in the calculation of the combined benefit ;

(*c*) if in calculating the aforesaid allowance the annual allowance which would otherwise have been payable was reduced in respect of any period of service pursuant to the provisions of a scheme made under subsection (3) of section 28 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936(**a**), or pursuant to the provisions of regulations made under subsection (4) of section 69 of the Act of 1946 or pursuant to any similar provisions contained in any other enactment and, in his new employment he was not, apart from the provisions of this sub-paragraph, subject to any provisions modifying, in relation to the Act of 1946, any benefit payable to him in respect of that employment, the combined benefit shall be reduced by the amount by which the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies was reduced ;

(*d*) the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies shall cease to be paid ;

(*e*) if under section 9 of the Act of 1937 (which relates to allocation of part of superannuation benefits to a wife or husband) or section 16 of the Act of 1953 (which relates to allocation of part of superannuation benefits to a spouse or dependant) or under a local Act or a scheme made in relation to a local Act he has surrendered part of the superannuation allowance to which, but for the surrender, he became entitled on ceasing to hold his former employment, the surrender so made shall have effect in relation to the combined benefit as, but for the last preceding paragraph, it would have had effect in relation to the superannuation allowance in respect of which it was made, and any pension which becomes payable by virtue of that surrender shall be paid by the authority by whom the combined benefit is payable.

Provisions with respect to separate benefits

7.—(1) The provisions of this regulation apply to a person to whom paragraph (1) of regulation 5 of these regulations applies other than a person who under that regulation elects to receive a combined benefit.

(2) Where a benefit, other than a short service grant, becomes payable to or in respect of a person to whom this regulation applies any provision—

(*a*) of regulations made under section 1 of the Act of 1953 ; or

(*b*) of any local Act modifying, extending or applying the Act of 1937 ; or

(*c*) of any scheme made under the Act of 1937 or the Act of 1953 ; or

(*d*) of a local Act scheme,

(**a**) 26 Geo. 5 & 1 Edw. 8. c. 33.

prescribing a minimum benefit or a method of calculating a benefit otherwise than by reference to the amount of the person's contributions or the service reckonable by him or the amount of the pension which, calculated by reference to that service, was or would in certain circumstances have become payable to him shall be disregarded.

(3) Where a short service grant becomes payable to any such person, and the service which he is entitled to reckon for the purpose of calculating any benefit under any of the provisions mentioned in sub-paragraphs (*a*) to (*d*) of the last preceding paragraph is less than five years the amount of the grant shall be either the amount which bears the same proportion to the sum otherwise payable as the period of service so reckonable bears to the period of five years or a sum equal to the amount of his contributions (including any sums which by or under any regulations are treated as contributions) together with compound interest thereon, whichever is the greater.

(4) Where any such person dies and but for the provisions of this regulation a death grant would be payable under regulation 10 of the benefits regulations that regulation shall apply with the modifications that—

(*a*) paragraph (3) thereof shall be read as if sub-paragraph (*c*) were omitted ; and

(*b*) for the purposes of the application of paragraph (5) of that regulation no regard shall be had to any payment made on account of any retirement pension, retirement grant or injury allowance to which he became entitled before he entered his last employment.

(5) Where any such person dies and but for the provisions of this paragraph a death grant would be payable otherwise than under regulation 10 of the benefits regulations, the provisions of the enactment providing for the payment of that grant shall apply with such modifications as are necessary to bring them into conformity with the provisions of regulation 10 of the benefits regulations as modified by the last preceding paragraph of this regulation.

Death of a person while still a contributory employee

8. Where a person to whom subsection (1) of section 31 of the Act of 1937 applies dies while still in employment as a contributory employee and if he had ceased to be employed otherwise than by reason of his death would have been entitled to exercise the right of election conferred by regulation 5 of these regulations, then the benefits, if any, payable in respect of him shall be calculated, and any such surrender as is referred to in paragraph (*e*) of regulation 6 of these regulations shall have effect, as if immediately before his death he had become entitled to benefits calculated under sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph (1) of regulation 5 of these regulations, whichever method of calculation is the more favourable to the person entitled to receive them.

Meaning of average remuneration

9. Where under these regulations a benefit becomes payable to or in respect of a person and under the relevant Act or scheme that benefit falls to be calculated by reference to the person's average remuneration, then, notwithstanding any other provisions in that Act or scheme, any reference therein to average remuneration shall for the purpose of calculating the benefit to which the employee becomes entitled under this regulation be construed as a reference to " average remuneration " within the meaning of regulation 3 of the benefits regulations, that regulation, in the case of a local Act contributor, being read subject to any modifications necessary to adapt it to the local Act scheme, including the substitution of references to a

"local Act contributor" for references to a "contributory employee" and of references to "service reckonable for the purpose of calculating a benefit under the local Act scheme" for references to "contributing service" and "non-contributing service".

Funds out of which benefits to be paid

10.—(1) Any benefit payable under these regulations shall be paid in the case of a contributory employee out of the appropriate superannuation fund and in the case of a local Act contributor out of the superannuation fund maintained by the local Act authority.

(2) Where under regulation 5 of these regulations a person elects to receive a combined benefit and was in his new employment an employee of a different authority from the authority whose employment he ceased to hold on previously becoming entitled to a superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies, then, unless the superannuation fund concerned is the same in the case of both employments, the authority maintaining the fund out of which the said allowance was payable shall, in lieu thereof and in lieu of any pension payable by reason of any such surrender as is referred to in paragraph (*e*) of regulation 6 of these regulations and of any widow's pension or death grant which on the death of the employee would have been payable by the authority in respect of him, pay from that fund to the superannuation fund out of which the combined benefit and any such pension as aforesaid is payable—

(*a*) by way of contribution to the combined benefit, in respect of each year or part of a year during which that benefit is payable to him, an amount equal to the amount of the superannuation allowance which would have been payable by that authority had the person not elected to receive a combined benefit;

(*b*) after the death of the person, in respect of each year or part of a year during which any such pension as aforesaid is payable, an amount equal to the amount of that pension which would have been payable by that authority had the person not elected to receive a combined benefit; and

(*c*) where a death grant is payable, an amount equal to the death grant which would have been payable by that authority had the person not elected to receive a combined benefit.

(3) Where a person to whom paragraph (1) of regulation 5 of these regulations applies ceases to hold his new employment by reason of his death and under regulation 8 of these regulations the benefit payable in respect of him falls to be calculated as if he had elected to receive a combined benefit, then, unless the superannuation fund concerned is the same in the case of both employments, the authority maintaining the fund out of which the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies shall pay from that fund to the fund out of which there is payable in respect of the combined benefit—

(*a*) any sum payable to the person's legal personal representatives by way of death grant;

(*b*) any sum payable by way of widow's pension; and

(*c*) any sum payable by way of pension in pursuance of any such surrender as is referred to in paragraph (*e*) of regulation 6 of these regulations,

the sum or sums which would have been payable on or after, as the case may be, the death of the employee by the said authority if a combined benefit had not been payable in respect of him.

Restriction on reckoning of service

11.—(1) In the calculation of any benefit payable to or in respect of a person under these regulations account shall not be taken of any number of years of service in his new employment by which those years together with the years of service in respect of which the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies was granted exceed forty-five years.

(2) For the purposes of the last foregoing paragraph "service" has the same meaning as (by virtue of paragraph (2) of regulation 5 of these regulations) it has in sub-paragraph (*b*) of paragraph (1) of that regulation.

(3) For the purposes of paragraph (1) of this regulation in calculating service—

(*a*) in the case of a person to or in respect of whom a combined benefit is payable account shall be taken of his years of non-contributing service at half their length;

(*b*) in the case of a person to or in respect of whom a benefit other than a combined benefit is payable account shall be taken—

(i) of the number of years which, but for the restriction imposed by paragraph (1) of this regulation, would be reckonable as completed years of contributing service, or in the case of a local Act contributor, as service or as a period of contribution for the purpose of calculating a benefit payable in respect of the person's new employment, and of half the number of years reckonable as non-contributing service for that purpose;

(ii) of the number of years reckoned as completed years of contributing service and of half the number of years reckoned as non-contributing service for the purpose of calculating the superannuation allowance to which subsection (1) of section 31 of the Act of 1937 applies:

Provided that if in respect of any year of non-contributing service the person has received a superannuation allowance based on a higher fraction than one one-hundred-and-twentieth or, as the case may be, one one-hundred-and-sixtieth of his annual remuneration that year of service shall be reckonable in the manner specified in paragraphs (*a*) and (*b*) of subsection (4) of section 2 of the Act of 1953 (which relates to the conversion of fractions of remuneration into years of service).

Given under the official seal of the Minister of Housing and Local Government this twentieth day of September, 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.)

A superannuation allowance to which section 31 (1) of the Local Government Superannuation Act, 1937, applies (i.e., a superannuation allowance under part 1 of that Act and, from the 1st October, 1954, when the Local Government Superannuation (Benefits) Regulations come into force, a similar benefit or an injury allowance under those regulations) is required to be

reduced, during re-employment of the pensioner with a local authority, "in such manner as may be prescribed" unless it is payable in respect of service rendered without a disqualifying break of service by a "designated employee" (an employee to whom before the 1st April, 1939, the Local Government and other Officers' Superannuation Act, 1922, applied). These regulations, which supersede the Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) Regulations, 1939, in general limit the superannuation allowance payable in such circumstances to an amount not exceeding the difference between the emoluments of the pensioner's new employment and the remuneration which he received in the employment in respect of which he was pensioned. Where however the pensioner's new employment replaces a local government employment previously held by him concurrently with the pensioned employment and in respect of which he has not been pensioned his superannuation allowance is not to be reduced by reason of the new employment unless he spends materially more time in the new employment than in the old concurrent employment. If he does spend materially more time in the new employment than in the old concurrent employment his superannuation allowance is to be reduced only to the extent by which the aggregate of the superannuation allowance and the emoluments of his new employment in any period exceeds the aggregate of the remuneration of the pensioned employment and the emoluments of the former concurrent employment for a comparable period.

The regulations also prescribe the superannuation rights to which the employee is to be entitled on ceasing to hold his new employment. Service in the pensioned employment is made reckonable for the purpose of ascertaining whether the employee is qualified to receive any benefit in respect of his new employment, and if he is so qualified he is given the right to choose (except in the circumstances specified in the proviso to regulation 5 (1)) either a combined benefit in respect of both employments or a separate benefit in respect of his new employment. Detailed provisions concerning the benefits payable are contained in regulations 5 to 10.

Regulation 11 limits the service reckonable for the purpose of calculating a benefit payable under the regulations.

1954 No. 1261 (S. 124)

The Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) (Scotland) Regulations, 1954

Made - - - -	*23rd September*, 1954
Laid before Parliament	*30th September*, 1954
Coming into Operation	*1st October*, 1954

In exercise of the powers conferred on me by subsection (2) of section 26 and subsection (6) of section 31 of the Local Government Superannuation (Scotland) Act, 1937(**a**), as amended by the Local Government Superannuation Act, 1953(**b**), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation and Commencement

1. These regulations may be cited as the Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) (Scotland) Regulations, 1954, and shall come into operation on the first day of October, 1954.

(**a**) 1 Edw. 8 & 1 Geo. 6. c. 69. (**b**) 1 & 2 Eliz. 2. c. 25.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

"the Act of 1937" means the Local Government Superannuation (Scotland) Act, 1937;

"the Act of 1946" means the National Insurance Act, 1946(**a**);

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

"added years", in relation to any person, means any additional years of service which that person is entitled to reckon under—

(*a*) regulation 12 of the benefits regulations; or

(*b*) regulations made by the Secretary of State under paragraph (*b*) of subsection (1) of section 13 of the Act of 1937 (which relates to the reckoning of service on a change of employment) or by the Secretary of State and the Minister of Housing and Local Government acting jointly under subsection (1) of section 36 of the Act of 1937 and subsection (1) of section 38 of the Local Government Superannuation Act, 1937(**b**) (which relate to reciprocal arrangements between Scotland and England);

(*c*) any similar provision contained in a local Act or local Act scheme;

"the benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(**c**);

"death grant" means a death grant as defined in regulation 2 of the benefits regulations or a similar grant (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme;

"enactment" includes an enactment contained in an order, regulation, rule or other instrument having effect by virtue of an Act;

"injury allowance" means an injury allowance as defined in regulation 2 of the benefits regulations or a similar allowance (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme;

"short service grant" means a short service grant as defined in regulation 2 of the benefits regulations or a similar grant (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme;

"superannuation allowance" includes a benefit under the benefits regulations, being a benefit by way of annual amounts such as is mentioned in paragraph (*a*) or (*c*) of subsection (3) of section 1 of the Act of 1953;

"widow's pension" means a widow's pension as defined in regulation 2 of the benefits regulations or a similar pension (however named) payable under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme.

(2) 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.

(3) The Interpretation Act, 1889(**d**), applies to the interpretation of these regulations as though these regulations and the regulations hereby revoked were Acts of Parliament.

(**a**) 9 & 10 Geo. 6. 67. (**b**) 1 Edw. 8 & 1 Geo. 6. c. 68.
(**c**) S.I. 1954/1059, p. 1632 above. (**d**) 52 & 53 Vict. c. 63.

Revocation

3. The Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) (Scotland) Regulations, 1939(a), are hereby revoked.

Reduction of Superannuation Allowance

4.—(1) If a person entitled to a superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies has entered or enters further employment with any local authority he shall not be entitled to receive in respect of any period during which he holds his new employment any greater sum in respect of superannuation allowance than the amount, if any, by which the emoluments of his new employment for that period fall short of the remuneration of the employment in relation to which he became entitled to the allowance, computed, in the manner described in the next succeeding paragraph, for a period of the same length, and the allowance shall be reduced accordingly:

Provided that if concurrently with any employment in relation to which he became entitled to a superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies, he held, within the period of twelve months ending on the day on which he became entitled to that allowance, any other employment with any local authority (hereinafter called a " concurrent employment ") then if either—

(*a*) before becoming entitled to the aforesaid allowance he ceased to hold a concurrent employment without having become entitled in relation thereto to such a superannuation allowance as aforesaid and after becoming entitled to the aforesaid allowance has entered or enters further employment with any local authority within twelve months after ceasing to hold the concurrent employment; or

(*b*) after becoming entitled to the aforesaid allowance he has ceased or ceases to hold a concurrent employment without having become entitled in relation thereto to such a superannuation allowance as aforesaid and thereafter has entered or enters further employment with any local authority,

the allowance to which subsection (1) of section 26 of the Act of 1937 applies shall—

(i) not be reduced in respect of any period in relation to his new employment unless during that period he spends in his new employment a time materially greater than the time which he spent in the concurrent employment during a period of the same length ending on the day on which he ceased to hold that concurrent employment;

(ii) in respect of any period during which he spends in his new employment a time materially greater than the time which he spent in the concurrent employment during a period of the same length ending on the day on which he ceased to hold that concurrent employment, be reduced only to the extent by which the aggregate of the aforesaid allowance and the emoluments of his new employment exceeds the aggregate of the remuneration of the employment in relation to which he became entitled to the aforesaid allowance, calculated for a period of the same length, and the emoluments of the concurrent employment calculated for a period of the same length ending on the day on which he ceased to hold that concurrent employment.

(a) S.R. & O. 1939/450 (Rev. XVII, p. 898: 1939 II, p. 2627).

(2) For the purpose of the last foregoing paragraph a person's remuneration shall be computed, in so far as it consisted of or comprised salary, wages or other emoluments whether in money or in kind receivable by the employee at a fixed rate, at the rate at which it was payable immediately before he ceased to hold the employment in respect of which he became entitled to the superannuation allowance, and, in so far as it consisted of or comprised fees and other emoluments not of a fixed nature, at the average rate at which he received those fees and other emoluments during the three years immediately before he ceased to hold the aforesaid employment or, if he was not entitled during the whole of that period to receive those fees and other emoluments, at the average rate for the period during which, within the said period of three years, he was entitled to receive them.

(3) For the purposes of paragraphs (1) and (2) of this regulation a person who, on reduction or discontinuance of his remuneration contributed under subsection (5) of section 6 of the Act of 1937 as if his remuneration had not been reduced or discontinued and a person whose remuneration was reduced or discontinued by reason of his absence from duty owing to ill-health or injury shall—

(*a*) in so far as his remuneration at the time of its reduction or discontinuance consisted of or comprised salary, wages or other emoluments whether in money or kind receivable at a fixed rate, be deemed to have received the remuneration which he would have received but for the reduction or discontinuance; and

(*b*) in so far as his remuneration at the time aforesaid consisted of or comprised fees and other emoluments not of a fixed nature, be deemed to have continued to receive those fees and other emoluments at the average rate at which he received them during the three years immediately before the said reduction or discontinuance or, if he was not entitled during the whole of that period to receive those fees and other emoluments, at the average rate for the period during which, within the said period of three years, he was entitled to receive them.

(4) Where in relation to any person two or more superannuation allowances to which subsection (1) of section 26 of the Act of 1937 applies fall to be reduced under the provisions of this regulation each such allowance shall be reduced in proportion to its amount.

(5) For the purposes of paragraph (1) of this regulation the period to be taken into account in determining whether any reduction of a superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies is required is each period in respect of which an instalment of that allowance is, subject to the provisions of this regulation, payable.

(6) Notwithstanding any previous provision of these regulations, where an instalment of a superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies is payable in respect of a period beginning before but ending after the date of coming into operation of these regulations that instalment shall be subject to reduction in the manner in which it would have been so subject if these regulations had not been made.

Adjustment of superannuation rights on cessation of further employment of persons entitled to superannuation allowance

5.—(1) Subject as hereinafter provided if any person entitled to a superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies has entered or enters further employment with any local authority and is in his new employment a contributory employee or local Act contributor, then, on his ceasing to hold that employment the service in respect of which he became entitled to the aforesaid allowance shall be

reckoned as service for the purpose of ascertaining whether he is qualified for any benefit under the benefits regulations or under the provisions of a scheme made under the Act of 1937 or the Act of 1953 or under the provisions of a local Act or local Act scheme as the case may be, and, if he is so qualified, he shall be entitled to receive at his option either—

(*a*) that benefit in addition to the superannuation allowance to which he had already become entitled ; or

(*b*) a benefit (hereinafter called a "combined benefit") calculated under the superannuation provisions applicable to him in his new employment by reference both to service in that employment and to the service taken into account in the calculation of the superannuation allowance to which he had already become entitled:

Provided that if—

(i) under the superannuation provisions applicable to him in his new employment a combined benefit would be calculated (otherwise than by reason of his being in that employment exempt from or subject to provisions for the reduction of superannuation benefits on account of or in relation to the Act of 1946) in some other manner than that in which the superannuation allowance to which he had already become entitled was calculated ; or

(ii) he is entitled in respect of his former employment to an injury allowance whether alone or in addition to any other benefit ; or

(iii) he is qualified in respect of his new employment for an injury allowance whether alone or in addition to any other benefit ; or

(iv) in his new employment he is a local Act contributor,

he shall not be entitled to exercise the option to which the preceding provisions of this regulation refer but shall be entitled to receive a benefit calculated under the superannuation provisions applicable to him in his new employment in addition to the superannuation allowance to which he had already become entitled.

(2) For the purposes of sub-paragraph (*b*) of the last foregoing paragraph "service" includes—

(*a*) added years ;

(*b*) if the superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies was granted in consequence of permanent ill-health or infirmity of mind or body and was calculated by reference to a minimum fraction of remuneration, a number of years equal to the numerator of that fraction ;

(*c*) any period of years by reference to which an additional benefit has been granted under regulation 13 of the benefits regulations (which relates to additional compensatory benefits) or under any other enactment to a person to whom subsection (1) of section 16 of the Act of 1937 (which relates to female nurses, midwives and health visitors) applies ; and

(*d*) any other notional increase or extension of service.

Provisions with respect to combined benefits

6. Where under the last foregoing regulation a person elects to receive a combined benefit—

(*a*) if the combined benefit includes a lump sum payment that payment shall be reduced by the amount of any lump sum payment received by

him in conjunction with the superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies ;

(*b*) if the aforesaid allowance included in respect of non-contributing service an annual amount calculated at a fraction larger than the standard fraction specified in the scale of allowances applicable to the person, that larger fraction shall in respect of the same non-contributing service be used in the calculation of the combined benefit ;

(*c*) if in calculating the aforesaid allowance to which subsection (1) of section 26 of the Act of 1937 applies the annual allowance which would otherwise have been payable was reduced in respect of any period of service pursuant to the provisions of a scheme made under subsection (3) of section 28 of the Widows', Orphans' and Old Age Contributory Pensions Act, 1936(a), or pursuant to the provisions of regulations made under subsection (4) of section 69 of the Act of 1946 or pursuant to any similar provisions contained in any other enactment and, in his new employment he was not, apart from the provisions of this sub-paragraph, subject to any provisions modifying, in relation to the Act of 1946, any benefit payable to him in respect of that employment, the combined benefit shall be reduced by the amount by which the superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies was reduced ;

(*d*) the superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies shall cease to be paid ;

(*e*) if under section 9 of the Act of 1937 (which relates to allocation of part of superannuation benefits to a wife or husband) or section 16 of the Act of 1953 (which relates to allocation of part of superannuation benefits to a spouse or dependant) or under a local Act or a scheme made in relation to a local Act he has surrendered part of the superannuation allowance to which, but for the surrender, he became entitled on ceasing to hold his former employment, the surrender so made shall have effect in relation to the combined benefit as, but for the last preceding paragraph, it would have had effect in relation to the superannuation allowance in respect of which it was made, and any pension which becomes payable by virtue of that surrender shall be paid by the authority by whom the combined benefit is payable.

Provisions with respect to separate benefits

7.—(1) The provisions of this regulation apply to a person to whom paragraph (1) of regulation 5 of these regulations applies other than a person who under that regulation elects to receive a combined benefit.

(2) Where a benefit, other than a short service grant, becomes payable to or in respect of a person to whom this regulation applies any provision—

(*a*) of regulations made under section 1 of the Act of 1953 ; or

(*b*) of any local Act modifying, extending or applying the Act of 1937 ; or

(*c*) of any scheme made under the Act of 1937 or the Act of 1953 ; or

(*d*) of a local Act scheme,

prescribing a minimum benefit or a method of calculating a benefit otherwise than by reference to the amount of the person's contributions or the service reckonable by him or the amount of the pension which, calculated by reference to that service, was or would in certain circumstances have become payable to him shall be disregarded.

(a) 26 Geo. 5 & 1 Edw. 8. c. 33.

(3) Where a short service grant becomes payable to any such person, and the service which he is entitled to reckon for the purpose of calculating any benefit under any of the provisions mentioned in sub-paragraphs (*a*) to (*d*) of the last preceding paragraph is less than five years the amount of the grant shall be either the amount which bears the same proportion to the sum otherwise payable as the period of service so reckonable bears to the period of five years or a sum equal to the amount of his contributions (including any sums which by or under any regulations are treated as contributions) together with compound interest thereon, whichever is the greater.

(4) Where any such person dies and but for the provisions of this regulation a death grant would be payable under regulation 10 of the benefits regulations that regulation shall apply with the modifications that—

(*a*) paragraph (3) thereof shall be read as if sub-paragraph (*c*) were omitted ; and

(*b*) for the purposes of the application of paragraph (5) of that regulation no regard shall be had to any payment made on account of any retirement pension, retirement grant or injury allowance to which he became entitled before he entered his last employment.

(5) Where any such person dies and but for the provisions of this paragraph a death grant would be payable otherwise than under regulation 10 of the benefits regulations, the provisions of the enactment providing for the payment of that grant shall apply with such modifications as are necessary to bring them into conformity with the provisions of regulation 10 of the benefits regulations as modified by the last preceding paragraph of this regulation.

Death of a person while still a contributory employee

8. Where a person to whom subsection (1) of section 26 of the Act of 1937 applies dies while still in employment as a contributory employee and if he had ceased to be employed otherwise than by reason of his death would have been entitled to exercise the right of election conferred by regulation 5 of these regulations, then the benefits, if any, payable in respect of him shall be calculated, and any such surrender as is referred to in paragraph (*e*) of regulation 6 of these regulations shall have effect as if immediately before his death he had become entitled to benefits calculated under sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph (1) of regulation 5 of these regulations, whichever method of calculation is the more favourable to the person entitled to receive them.

Meaning of average remuneration

9. Where under these regulations a benefit becomes payable to or in respect of a person and under the relevant Act or scheme that benefit falls to be calculated by reference to the person's average remuneration, then, notwithstanding any other provisions in that Act or scheme, any reference therein to average remuneration shall for the purpose of calculating the benefit to which the employee becomes entitled under this regulation be construed as a reference to " average remuneration " within the meaning of regulation 3 of the benefits regulations, that regulation, in the case of a local Act contributor, being read subject to any modifications necessary to adapt it to the local Act scheme, including the substitution of references to a " local Act contributor " for references to a " contributory employee " and of references to " service reckonable for the purpose of calculating a benefit under the local Act scheme " for references to " contributing service " and " non-contributing service ".

Funds out of which benefits to be paid

10.—(1) Any benefit payable under these regulations shall be paid in the case of a contributory employee out of the appropriate superannuation fund and in the case of a local Act contributor out of the superannuation fund maintained by the local Act authority.

(2) Where under regulation 5 of these regulations a person elects to receive a combined benefit and was in his new employment an employee of a different authority from the authority whose employment he ceased to hold on previously becoming entitled to a superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies, then, unless the superannuation fund concerned is the same in the case of both employments, the authority maintaining the fund out of which the said allowance was payable shall, in lieu thereof and in lieu of any pension payable by reason of any such surrender as is referred to in paragraph (*e*) of regulation 6 of these regulations and of any widow's pension or death grant which on the death of the employee would have been payable by the authority in respect of him, pay from that fund to the superannuation fund out of which the combined benefit and any such pension as aforesaid is payable—

(*a*) by way of contribution to the combined benefit, in respect of each year or part of a year during which that benefit is payable to him, an amount equal to the amount of the superannuation allowance which would have been payable by that authority had the person not elected to receive a combined benefit ;

(*b*) after the death of the person, in respect of each year or part of a year during which any such pension as aforesaid is payable, an amount equal to the amount of that pension which would have been payable by that authority had the person not elected to receive a combined benefit ; and

(*c*) where a death grant is payable, an amount equal to the death grant which would have been payable by that authority had the person not elected to receive a combined benefit.

(3) Where a person to whom paragraph (1) of regulation 5 of these regulations applies ceases to hold his new employment by reason of his death and under regulation 8 of these regulations the benefit payable in respect of him falls to be calculated as if he had elected to receive a combined benefit, then, unless the superannuation fund concerned is the same in the case of both employments, the authority maintaining the fund out of which the superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies shall pay from that fund to the fund out of which there is payable in respect of the combined benefit—

(*a*) any sum payable to the person's legal personal representatives by way of death grant ;

(*b*) any sum payable by way of widow's pension ; and

(*c*) any sum payable by way of pension in pursuance of any such surrender as is referred to in paragraph (*e*) of regulation 6 of these regulations,

the sum or sums which would have been payable on or, as the case may be, after the death of the employee by the said authority if a combined benefit had not been payable in respect of him.

Restriction on reckoning of service

11.—(1) In the calculation of any benefit payable to or in respect of a person under these regulations account shall not be taken of any number of years of service in his new employment by which those years together

with the years of service in respect of which the superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies was granted exceed forty-five years.

(2) For the purposes of the last foregoing paragraph "service" has the same meaning as, by virtue of paragraph (2) of regulation 5 of these regulations, it has in sub-paragraph (*b*) of paragraph (1) of that regulation.

(3) For the purposes of paragraph (1) of this regulation in calculating service—

(*a*) in the case of a person to or in respect of whom a combined benefit is payable account shall be taken of his years of non-contributing service at half their length;

(*b*) in the case of a person to or in respect of whom a benefit other than a combined benefit is payable account shall be taken—

(i) of the number of years which, but for the restriction imposed by paragraph (1) of this regulation, would be reckonable as completed years of contributing service, or in the case of a local Act contributor, as service or as a period of contribution for the purpose of calculating a benefit payable in respect of the person's new employment, and of half the number of years reckonable as non-contributing service for that purpose;

(ii) of the number of years reckoned as completed years of contributing service and of half the number of years reckoned as non-contributing service for the purpose of calculating the superannuation allowance to which subsection (1) of section 26 of the Act of 1937 applies:

Provided that if in respect of any year of non-contributing service the person has received a superannuation allowance based on a higher fraction than one one hundred and twentieth or, as the case may be, one one hundred and sixtieth of his annual remuneration that year of service shall be reckonable in the manner specified in paragraphs (*a*) and (*b*) of subsection (4) of section 2 of the Act of 1953 (which relates to the conversion of fractions of remuneration into years of service).

Dated this 23rd day of September, nineteen hundred and fifty-four.

James Stuart,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.

EXPLANATORY NOTE

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

A superanuation allowance to which section 26 (1) of the Local Government Superannuation (Scotland) Act, 1937, applies (i.e., a superannuation allowance under Part I of that Act and, from the 1st October, 1954, when the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954, come into force, a similar benefit or an injury allowance under those regulations) is required to be reduced during re-employment of the pensioner with a local authority, "in such manner as may be prescribed" unless it is payable in respect of service rendered without a disqualifying break of service by a "designated employee" (an employee to whom before the

16th May, 1939, the Local Government and other Officers' Superannuation Act, 1922, applied). These regulations, which supersede the Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) (Scotland) Regulations, 1939, in general limit the superannuation allowance payable in such circumstances to an amount not exceeding the difference between the emoluments of the pensioner's new employment and the remuneration which he received in the employment in respect of which he was pensioned. Where, however, the pensioner's new employment replaces a local government employment previously held by him concurrently with the pensioned employment and in respect of which he has not been pensioned his superannuation allowance is not to be reduced by reason of the new employment unless he spends materially more time in the new employment than in the old concurrent employment. If he does spend materially more time in the new employment than in the old concurrent employment his superannuation allowance is to be reduced only to the extent by which the aggregate of the superannuation allowance and the emoluments of his new employment in any period exceeds the aggregate of the remuneration of the pensioned employment and the emoluments of the former concurrent employment for a comparable period.

The regulations also prescribe the superannuation rights to which the employee is to be entitled on ceasing to hold his new employment. Service in the pensioned employment is made reckonable for the purpose of ascertaining whether the employee is qualified to receive any benefit in respect of his new employment, and if he is so qualified he is given the right to choose (except in the circumstances specified in the proviso to regulation 5 (1)) either a combined benefit in respect of both employments or a separate benefit in respect of his new employment. Detailed provisions concerning the benefits payable are contained in regulations 5 to 10.

Regulation 11 limits the service reckonable for the purpose of calculating a benefit payable under the regulations.

1954 No. 879

The Local Government Superannuation (Surrender of Superannuation Allowance) Rules, 1954

Made - - - -	*29th June*, 1954
Laid before Parliament	*5th July*, 1954
Coming into Operation	*6th July*, 1954

The Minister of Housing and Local Government, in exercise of his powers under section 16 of the Local Government Superannuation Act, 1953(**a**), and of all other powers enabling him in that behalf, hereby makes the following rules :—

Citation commencement and interpretation

1.—(1) These rules may be cited as the Local Government Superannuation (Surrender of Superannuation Allowance) Rules, 1954, and shall come into operation on the sixth day of July, 1954.

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

(**a**) 1 & 2 Eliz. 2. c. 25. (**b**) 52 & 53 Vict. c. 63.