1954 No. 888 (S. 92)

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

Made - - - -	28*th June*, 1954
Laid before Parliament	5*th July*, 1954
Coming into Operation	6*th July*, 1954

In exercise of the powers conferred on me by section 16 of the Local Government Superannuation Act, 1953(a), and of all other powers enabling me in that behalf, I hereby make the following rules:—

Citation, Commencement and Interpretation

1.—(1) These rules may be cited as the Local Government Superannuation (Surrender of Superannuation Allowance) (Scotland) Rules, 1954, and shall come into operation on the 6th 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.

(3) In these rules the following expressions have the meanings hereby assigned to them:—

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

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

"annual allowance" means a superannuation allowance under Part I of the Act of 1937, or a benefit under the superannuation 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;

"beneficiary" means the spouse or other dependant in whose favour an employee surrenders or proposes to surrender under these rules part of his annual allowance;

"eligible employee" means a contributory employee who—

(*a*) on ceasing to hold his employment becomes entitled to an annual allowance; or

(*b*) if he were to retire from his employment would become entitled to an annual allowance;

"retiring employee" means a contributory employee who on ceasing to hold his employment becomes entitled to an annual allowance;

"pensionable age" in relation to any person means the earliest age at which he could on ceasing to be employed become entitled to an annual allowance other than an annual allowance payable in consequence of his incapacity to discharge efficiently the duties of his employment by reason of permanent ill-health or infirmity of mind or body;

"the prescribed form" means the form specified in the Schedule to these regulations or a form to the like effect;

"reduced annual allowance" means an annual allowance reduced in consequence of a surrender made under these rules;

"the superannuation regulations" means regulations made by the Secretary of State under subsection (2) of section 1 of the Act of 1953;

(a) 1 & 2 Eliz. 2. c. 25. (b) 52 & 53 Vict. c. 63. (c) 1 Edw. 8 & 1 Geo. 6. c. 69.

"surrender" means the surrender under these rules of part of an annual allowance;

"the tables" means tables prepared by the Government Actuary under section 16 of the Act of 1953;

"the Teachers Acts" means the Education (Scotland) (Superannuation) Acts, 1919 to 1937 and the Education (Scotland) Act, 1946.

Part of superannuation allowance that may be surrendered and amount of pension

2.—(1) Subject to the provisions of these rules an eligible employee shall if he so desires be allowed to surrender as from the date on which he ceases to hold his employment, in return for the benefits of these rules, such part, not exceeding one-third, of the annual allowance to which he would otherwise be entitled as he may specify:

Provided that—

(*a*) an employee shall not surrender—

(i) any such part as would make the amount of the reduced annual allowance payable to him, or which would be payable to him if he were to retire from his employment immediately after the surrender is allowed by the appropriate administering authority, less than the amount of the pension which might become payable under these rules to the beneficiary;

(ii) a smaller part than would secure for the beneficiary a pension of twenty-six pounds per annum; or

(iii) any part which is not an exact number of pounds;

(*b*) subject as aforesaid an employee in the calculation of whose annual allowance account is taken (or would be taken if he were to retire from his employment immediately after the surrender) of such service within the meaning of the Superannuation Scheme framed in pursuance of the Teachers Acts as is mentioned in section 15 of the Act of 1937, shall not surrender a larger part than one-third of the annual allowance, after deduction therefrom of any annual sum which by virtue of that section and any regulations for the time being in force thereunder will be required to be deducted from the amount receivable in any year in respect of the annual allowance.

(2) The amount of pension payable in return for each pound of an annual allowance surrendered by an employee shall be the amount, based on the age and sex of the employee and the age and sex of the beneficiary, which according to the tables in force at the date at which the surrender is allowed by the local authority concerned will be the actuarial equivalent at the date when the employee ceases to hold his employment of each pound of the surrendered part of the annual allowance.

Information to be supplied to employees eligible to make a surrender

3.—(1) The appropriate administering authority shall send at the times and to the persons specified in paragraph (2) of this rule a notice stating that provision has been made by these rules for the surrender of part of a superannuation allowance to a spouse or dependant and informing the person to whom the notice is addressed that he may on application to the authority obtain further information on the subject.

(2) The notice to which the last preceding paragraph refers shall be sent to a contributory employee:—

(*a*) forthwith on the coming into operation of these rules if at the date of the coming into operation of these rules he is entitled, subject to the

provisions of these rules, to make a surrender thereunder or if, so far as can be ascertained, he will be so entitled within a period of three months after that date ;

(*b*) not less than three months before the date at which he will, if he lives, reach pensionable age ;

(*c*) forthwith on—

(i) his giving notice of retirement ; or

(ii) his being given notice to terminate his employment ; or

(iii) his ceasing to be employed without any such notice having been given, in circumstances in which he will become entitled to an annual allowance,

unless within the preceding three months a notice has been sent to him under this paragraph.

(3) The appropriate administering authority shall forthwith on receipt of an application made pursuant to this rule send to the applicant the following documents namely, a copy of these rules and the tables for the time being in force, the provisional estimate referred to in paragraph (4) of this rule, and two copies of the prescribed form.

(4) The provisional estimate referred to in paragraph (3) of this rule is, in the case of a retiring employee, a provisional estimate of the amount of the annual allowance to which he has become or will become entitled, and in any other case the amount of the annual allowance to which he would become entitled if he were to retire three months after the date on which the estimate is given.

Notification of desire to make a surrender

4.—(1) Where a retiring employee wishes to make a surrender he may, not more than two months before or within one month after the date on which he ceases to be employed, notify his desire to surrender a part of an annual allowance to which he may become or has become entitled by completing a copy of the prescribed form and sending it to the appropriate administering authority:

Provided that where the appropriate administering authority are satisfied that owing to circumstances beyond the control of the employee it has not been reasonably practicable for him to notify his desire to surrender a part of an annual allowance within the time limit imposed by the preceding provisions of this paragraph, they may at their discretion extend that limit to a date not more than six months after the date on which he ceases to be employed.

(2) An eligible employee other than a retiring employee who wishes to make a surrender may within two months before or at any time after becoming an eligible employee and while he is still employed notify his desire to surrender a part of an annual allowance to which he may become entitled by completing and despatching, in accordance with the provisions of paragraph (1) of this rule, a copy of the prescribed form.

(3) If at the date of receipt by the appropriate administering authority of any such notification as aforesaid there are in force tables different from those which were furnished to the employee under rule 3 of these rules the authority shall forthwith furnish him with a copy of the tables in force for the time being.

Action to be taken prior to administering authority's decision in regard to notification

5. On receipt from a contributory employee of a notification under the last preceding rule the appropriate administering authority shall—

(*a*) if they are not the employing authority, obtain from the employing authority a record of all the occasions on which the employee has been absent from duty owing to ill-health for periods of seven or more consecutive days during the five years immediately preceding the date on which the notification was received by the appropriate administering authority or, if the employee has retired from his employment, during the five years immediately preceding the date of his retirement;

(*b*) forthwith arrange for the employee to be examined by a registered medical practitioner nominated by them and for a report to be given to them by the practitioner stating whether, in his opinion, the employee is in good health, regard being had to the age of the employee, and if the opinion stated in such report is that the employee is not in good health the appropriate administering authority shall notify him accordingly and offer him an opportunity of a further examination by some other registered medical practitioner nominated by them with a view to that practitioner reporting to them on the state of health of the employee;

(*c*) require the employee to furnish at his own expense—

(i) a certificate of his birth, except where the date of birth has been duly recorded by the authority and is not disputed;

(ii) in respect of a beneficiary who is the employee's spouse a birth certificate and a marriage certificate;

(iii) in respect of a beneficiary who is a dependant other than the employee's spouse a birth certificate and such evidence as may be appropriate to prove dependancy;

and any other relevant information or evidence which the authority consider necessary:

Provided that if for any reason a birth or marriage certificate cannot be supplied the authority may accept such other evidence of birth or marriage as they think fit in order to determine the question of marriage or the age of the person concerned as the case may be.

Fees for medical examination

6. Any fee payable to a practitioner in respect of an examination and report under the last preceding rule shall be paid, at the time of the examination, by the employee.

Decision of administering authority in regard to notification

7.—(1) Subject to the provisions of these rules, unless the appropriate administering authority are of opinion, on consideration of a report obtained by them under rule 5 of these rules, that the employee to whom the report relates is not in good health or they are of opinion that the evidence produced in regard to marriage or dependancy is not satisfactory, they shall allow the surrender of such part of the annual allowance as is specified in the employee's notification and as is in conformity with these rules and shall grant to the beneficiary named in the notification a pension, calculated in accordance with the provision of paragraph (2) of rule 2 of these rules and payable in the event of the beneficiary's surviving the employee:

Provided that a decision by an appropriate administering authority to allow a surrender by a retiring employee shall not be made before the date

on which he ceases to be employed, and a decision by an appropriate administering authority to allow a surrender by an eligible employee other than a retiring employee shall not be made before the date on which he becomes such an employee.

(2) Notwithstanding anything in the last preceding paragraph, the appropriate administering authority shall, if they are dissatisfied with the evidence of marriage, but are nevertheless satisfied on the evidence already before them or after making such further enquiries as they think necessary that a person named as spouse in the notification given by the employee is a dependant of the employee, treat the notification as if the person named therein as spouse had been named as a dependant of the employee.

(3) As soon as practicable after coming to a decision in regard to a notification given by an employee, the appropriate administering authority shall notify the employee that they have allowed a surrender in favour of the person named in his notification or that they have decided not to allow a surrender of any part of the annual allowance, as the case may be.

(4) Where the appropriate administering authority have allowed a surrender they shall in addition to furnishing the employee with the notification required by the last preceding paragraph furnish him with a statement as to the amount of the pension to which the beneficiary may become entitled after the death of the employee and, if the employee is a retiring employee, with a statement as to the amount of the reduced annual allowance to which the employee is entitled.

(5) A notification of a decision not to allow a surrender shall state the grounds for the decision.

(6) For the purposes of these rules a notification sent to an employee in pursuance of paragraph (3) of this rule shall, if it has been posted in a prepaid envelope addressed to the employee by the appropriate administering authority, be deemed to have been received by the employee at the time at which a letter would be delivered in the ordinary course of post.

Cancellation or amendment of notification

8. A contributory employee who has given a notification of surrender under these rules may cancel or amend the notification by a notice in writing addressed to the appropriate administering authority and posted in a prepaid envelope to or left with the clerk to the authority at any time before the employee has received notification from the authority that his surrender has been allowed.

Validity and operation of notification

9.—(1) A notification by an employee shall become null and void if—

(*a*) the beneficiary dies before the employee receives notification from the appropriate administering authority that his surrender has been allowed ; or

(*b*) the employee dies at any time before midnight on the day on which the appropriate administering authority decide to allow the surrender.

(2) Subject as aforesaid a surrender allowed in pursuance of a notification given by an employee shall have effect as from the date on which the employee ceases to hold his employment.

Surrender by an eligible employee of an additional part of an annual allowance

10. An eligible employee who has already made a surrender may thereafter surrender, subject to the provisions of these rules, a further part or parts of any annual allowance to which he may become entitled :

Provided that the aggregate of the parts surrendered shall conform with the limits imposed by rule 2 of these rules on the surrender of a single part of an annual allowance.

Dated this 28th day of June, 1954.

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

St. Andrew's House,
Edinburgh 1.

SCHEDULE

LOCAL GOVERNMENT SUPERANNUATION (SURRENDER OF SUPERANNUATION ALLOWANCE) (SCOTLAND) RULES, 1954

Form of Notification of Surrender

To([1])..... .....

Name of employing authority.....

Particulars relating to person desiring to make the surrender
- (*a*) Name in full.....
- (*b*) Date of birth .....
- (*c*) Address (private)..... .....

Particulars relating to beneficiary
- (*a*) Name in full.....
- (*b*) Date of birth .....
- (*c*) Address (private)..... .....
- (*d*) Sex.....
- (*e*) Relationship of beneficiary to person desiring to make the surrender. .....
- (*f*) If beneficiary is spouse of person desiring to make the surrender, date of marriage. .....

A. ([2])In pursuance of paragraph (1) of rule 4 of the above-mentioned rules I hereby notify my desire to surrender in favour of the above-named beneficiary the under-mentioned part of the annual superannuation allowance to which on ceasing to be employed on the day of I/became/expect to become([3])/entitled.

B. ([2])In pursuance of paragraph (2) of rule 4 of the above-mentioned rules I hereby notify my desire to surrender in favour of the above-named beneficiary the under-mentioned part of the annual superannuation allowance to which, if I were to retire [immediately] [on the day of , 19]([3]), I would become entitled.

	£	s.	d.
(1) Amount of annual superannuation allowance to be surrendered([4]) ...			
(2) Amount of annual superannuation allowance expected after deduction of amount surrendered([5])			
(3) Pension to beneficiary expected in return for amount surrendered([6])			

Signature.....

Date.....

([1]) Insert name of local authority administering the superannuation fund.
([2]) Delete paragraph A or B, whichever does not apply.
([3]) Delete the word or words which do not apply.
([4]) This must be an exact number of pounds.
([5]) This must not be less than the pension payable under the above-mentioned rules to the beneficiary.
([6]) This must not be less than £26.

EXPLANATORY NOTE

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

These rules enable a contributory employee to surrender, in the circumstances and subject to the conditions stated in the rules, part of a superannuation allowance in exchange for the grant of a pension to a spouse or other named dependant of the employee. A pension so granted will be calculated by reference to tables prepared by the Government Actuary and will be payable to the beneficiary during the period for which the beneficiary survives the employee. A surrender may be made under the rules by a contributory employee who on ceasing to hold his employment becomes entitled to an allowance under Part 1 of the Local Government Superannuation (Scotland) Act, 1937, or an annual allowance under superannuation regulations made under section 1 of the Local Government Superannuation Act, 1953. A surrender may also be made by a contributory employee who would be entitled to such an allowance if he were to retire. In either case not more than one-third of the allowance may be surrendered, and the amount surrendered must not produce a pension of less than £26 or make the employee's own allowance (reduced in consequence of the surrender) less than the pension which may become payable to the beneficiary. The local authority administering the appropriate superannuation fund must allow a surrender made in conformity with the rules unless they are of opinion, after considering a medical report, that the employee is not in good health, or that evidence of marriage or dependency of the beneficiary is unsatisfactory.

The rules specify the times within which an employee may notify his wish to make a surrender or to cancel or amend his notification, and they also provide for the circumstances in which, owing to death of the beneficiary or the employee, a notification of a wish to make a surrender becomes void.

1954 No. 1229

The Local Government Superannuation (Teachers) Regulations, 1954

Made - - - -	17*th September*, 1954
Laid before Parliament	22*nd September*, 1954
Coming into Operation	1*st October*, 1954

The Minister of Housing and Local Government in exercise of his powers under provisos (*b*) and (*c*) to subsection (1) of section 17 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 :—

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

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

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

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