1962. No. 42 **[NC]**

LOCAL GOVERNMENT—PENSIONS

Existing Officers—Surrender of Superannuation Allowance

RULES, DATED 16TH MARCH, 1962, MADE BY THE MINISTRY OF HEALTH AND LOCAL GOVERNMENT UNDER SECTION 5 OF THE LOCAL GOVERNMENT (SUPERANNUATION) ACT (NORTHERN IRELAND), 1950.

The Ministry of Health and Local Government in pursuance of the powers conferred on it by section 5 of the Local Government (Superannuation) Act (Northern Ireland), 1950(a), and of all other powers enabling it in that behalf, hereby makes the following rules:—

Citation, commencement and interpretation

1. These rules may be cited as the Local Government Superannuation (Existing Officers—Surrender of Superannuation Allowance) Rules (Northern Ireland), 1962, and shall come into operation on the first day of April, 1962.

2. In these rules the following expressions have the meanings hereby assigned to them:—

"the Act" means the Local Government (Superannuation) Act (Northern Ireland), 1950;

"the Act of 1959" means the National Insurance Act (Northern Ireland), 1959(b);

"the previous rules" means the Local Government Superannuation (Allocation of Pension) Rules (Northern Ireland), 1950(c), the Local Government Superannuation (Allocation of Pension) Rules (Northern Ireland), 1951(d), and the Local Government Superannuation (Allocation of Pension) Rules (Northern Ireland), 1961(e);

"the superannuation regulations" means the Local Government (Superannuation) Regulations (Northern Ireland), 1950(f);

"the Belfast Corporation Superannuation Scheme" means the superannuation scheme made by the council of the county borough of Belfast under section 5A of the Act;

"beneficiary" means the spouse or dependant in whose favour a surrender is made or is proposed to be made under these rules of part of a superannuation allowance;

"graduated retirement pension" and "graduated contributions" have the same meanings as in the Act of 1959;

"lodged with the local authority" means lodged with such officer of the local authority as the local authority may direct;

"non-participating employment" has the meaning assigned to it by subsection (2) of section 6 of the Act of 1959;

"pension" means an annual allowance; and

(a) 1950. c. 10.
(b) 1959. c. 21.
(c) S.R. & O. (N.I.) 1950, No. 76.
(d) S.R. & O. (N.I.) 1951, No. 66.
(e) S.R. & O. (N.I.) 1961, No. 42.
(f) S.R. & O. (N.I.) 1950, No. 103.

"superannuation allowance" means the annual rate of the superannuation allowance granted to a person under the relevant pension enactment or, in the case of a person who remains in the employment of a local authority, the annual rate of the superannuation allowance which he may become eligible to receive under the relevant pension enactment.

Revocation

3. The previous rules are hereby revoked.

Persons who may surrender part of a superannuation allowance

4. The persons who, subject to the provisions of the Act and these rules, shall be allowed to surrender a part of a superannuation allowance in consideration of the grant of a pension to a beneficiary are persons who, being or having been existing officers, did not duly elect that the superannuation regulations or the Belfast Corporation Superannuation Scheme, as the case may be, should apply to them or were not entitled so to elect, and who—

(*a*) retire otherwise than on the ground of ill-health; or

(*b*) have attained the age of sixty years and have been employed by a local authority for not less than forty years.

Option in respect of a spouse

5.—(1) A pension secured under these rules for the benefit of the spouse of a person who surrenders a part of a superannuation allowance may, at the option of the person, be payable either—

(*a*) in respect of the period, if any, for which the spouse survives the person (hereinafter referred to as Option A); or

(*b*) in respect both of the period of their joint lives subsequent to the retirement of the person and of the period, if any, for which the spouse survives the person; and the rate of pension payable to the spouse during the latter period shall be twice the rate payable to the spouse during the former period (hereinafter referred to as Option B).

(2) A pension secured under these rules for the benefit of a dependant (other than the spouse) of the person who surrenders part of a superannuation allowance shall be payable in respect of the period, if any, for which the dependant survives the person.

Pension payable to beneficiary

6. The amount of pension payable to a beneficiary in return for each one pound of a superannuation allowance surrendered by a person shall be the amount, according to the age and sex of the person and the age and sex of the beneficiary, shown in the appropriate Table set out in the second schedule.

7. The pension of the beneficiary secured by the surrender of part of a superannuation allowance shall be payable in arrear in the same manner as that superannuation allowance is payable or would have been payable if such a superannuation allowance had been granted.

Part of superannuation allowance that may be surrendered

8.—(1) A person shall not surrender—

(*a*) more than one-third of his superannuation allowance;

(*b*) any such part of his superannuation allowance as would make the reduced amount of that allowance less than the amount of the pension which might become payable under these rules to the beneficiary after the person's death; or

(*c*) a smaller amount of his superannuation allowance than would secure for the beneficiary after the death of the person a pension of twenty-six pounds per annum; or

(*d*) any part of his superannuation allowance which is not an exact number of pounds.

(2) No provision in these rules for the surrender of part of a superannuation allowance so far as it affects any person who is, or was immediately before he ceased to be employed, in non-participating employment, shall operate so as to reduce his superannuation allowance below such amount as would be equal when expressed as a weekly rate to the graduated retirement pension which would be payable to him under the Act of 1959 in return for an amount of graduated contributions equal to one such contribution paid in each week of the period of his service in respect of a weekly payment of remuneration of £15.

(3) For the purposes of paragraph (2) "service" means non-participating employment which is reckonable for the purpose of determining whether a person is eligible to receive a superannuation allowance under—

(*a*) any of the enactments set out in the first column of the Second Schedule to the Act, or any such enactment as extended or applied by any of the enactments set out in the second column of that Schedule; or

(*b*) any local Act which makes provision for the superannuation of any officers of a local authority otherwise than by means of a scheme involving the payment of contributions by those officers.

Information to be supplied by local authority

9. On a person becoming such a person as is referred to in rule 4 the local authority in whose employment he is or was shall furnish him with a copy of these rules together with a copy of a form of notification of surrender of superannuation allowance (form S.1 set out in the first schedule) and a provisional estimate of the amount of his superannuation allowance.

Notification of desire to surrender part of a superannuation allowance

10. A person who desires to surrender a part of his superannuation allowance shall notify accordingly the local authority in whose employment he is or was, by notice in writing, in the form S.1 set out in the first schedule, lodged with the local authority at any time after he becomes a person to whom rule 4 applies but not later than one month after the date on which he ceases to be employed by the local authority:

Provided that where the local authority are satisfied that owing to circumstances beyond the control of the person it has not been practicable for him to notify within the time limit specified his desire to surrender a part of his superannuation allowance they may at their discretion extend the time limit to a date not later than six months after the date on which he ceases to be employed.

Procedure by local authority on receipt of notification

11.—(1) Upon receipt from a person of a notification under rule 10—

(*a*) the local authority shall arrange for the person to be examined by a registered medical practitioner nominated by them, with a view to obtaining from such practitioner a report stating whether, in his opinion, the person is in good health, regard being had to his age, and if the opinion stated in such report is that he is not in good health, the local

authority shall notify him accordingly, and offer him an opportunity of a further examination by some other registered medical practitioner nominated by them; and

(*b*) the local authority shall require the person to furnish at his own expense—

(i) a certificate of his birth; and

(ii) with respect to the beneficiary, a birth certificate, a marriage certificate (in the case of the spouse of the person) and any other information or evidence which the local authority may consider necessary:

Provided that if for any reason a birth certificate or a marriage certificate cannot be supplied, the local authority may accept such other evidence of age or marriage as they may think fit.

(2) Any fee payable to any registered medical practitioner in respect of an examination under sub-paragraph (*a*) of paragraph (1) shall be paid by the person concerned at the time of the examination.

(3) The decision of the local authority upon the question whether a person is in good health shall be final and conclusive.

12.—(1) Subject to the provisions of these rules, unless the local authority are of opinion, on consideration of a report obtained by them under sub-paragraph (*a*) of paragraph (1) of rule 11, that the person to whom the report relates is not in good health or they are of opinion that the evidence produced in regard to marriage or dependency is not satisfactory, they shall allow the surrender of such part of the superannuation allowance as is specified in the person's notification and as is in conformity with these rules and shall grant to the beneficiary named in the notification a pension, payable, if the beneficiary is the spouse of the person, in accordance with the option exercised under paragraph (1) of rule 5 and if other than the spouse of the person, in accordance with paragraph (2) thereof, to be calculated in accordance with the provisions of rule 6.

(2) As soon as practicable after coming to a decision in regard to a notification of surrender of such part of the superannuation allowance given by a person, the local authority shall notify the person concerned that they have allowed a surrender in favour of the beneficiary named in his notification or that they have decided not to allow a surrender of any part of the superannuation allowance, as the case may be.

(3) Where a local authority have allowed a surrender of part of a superannuation allowance they shall, in addition to furnishing the person who has notified his desire to make such a surrender with the notification required by paragraph (2), furnish him with a statement or estimate of the amount of the reduced superannuation allowance that he is eligible or may become eligible to receive and of the amount of the pension that is payable or may become payable to the beneficiary.

(4) A notification of a decision not to allow a surrender of part of a superannuation allowance shall state the grounds for the decision.

Cancellation or amendment of notification

13. A person who has given a notification of surrender of part of a superannuation allowance may cancel or amend his notification by notice in writing lodged with the local authority in whose employment he is or was, in the form S.2 or, as the case may be, the form S.3 set out in the first schedule, at any time

before he has received notification from the local authority that the surrender has been allowed but save as provided in rule 14, no cancellation or amendment of a notification of surrender of part of a superannuation allowance shall be permitted after the person has received notification from the local authority that the surrender has been allowed.

14. Where a person—

(*a*) has been furnished, in accordance with rule 9, by the local authority in whose employment he is or was, with a provisional estimate of the amount of his superannuation allowance;

(*b*) has furnished the local authority, in accordance with rule 10, with notification of surrender of part of his superannuation allowance; and

(*c*) has not been notified by the local authority that they have decided not to allow a surrender of any part of his superannuation allowance,

then, if he receives notification from the local authority not later than six months after the date on which he ceases to be employed by them of an alteration in the amount, or the estimated amount, of his superannuation allowance he may amend the notification given by him in accordance with rule 10 by notice in writing, in the form S.3 set out in the first schedule, lodged with the local authority not later than fourteen days after the receipt by him from the local authority of notification of the said alteration:

Provided that—

(i) in the case of a person who, at the time of furnishing the local authority in accordance with rule 10 with notification of surrender of part of his superannuation allowance, was such a person as is referred to in paragraph (*a*) of rule 4, notice of amendment of that notification may be lodged with the local authority only for the purpose of increasing the amount of the part of the superannuation allowance to be surrendered by an amount not exceeding the increase (to the nearest pound) or, as the case may be, decreasing the amount of the part of the superannuation allowance to be surrendered by an amount not exceeding the decrease (to the nearest pound), of the amount, or the estimated amount, of the superannuation allowance of which the person has previously received notification in accordance with rule 9; and

(ii) in the case of a person other than such a person as is referred to in proviso (i) no notice of amendment providing for the substitution of Option A for Option B or, as the case may be, Option B for Option A, in the notification of surrender of part of a superannuation allowance, may be lodged with the local authority later than one month after the date on which the person ceases to be employed by them and no notice of amendment of such notification providing for a variation in the amount of the part of the superannuation allowance to be surrendered may be lodged with the local authority after the date on which the person has received notification from the local authority that the surrender of part of his superannuation allowance has been allowed, except for the purpose of increasing the amount of the part of the superannuation allowance to be surrendered by an amount not exceeding the increase (to the nearest pound), or, as the case may be, decreasing the amount of the part of the superannuation allowance to be surrendered by an amount not exceeding the decrease (to the nearest pound), of the amount, or the estimated amount, of the superannuation allowance of which the person has previously received notification in accordance with rule 9.