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As these Orders have been classified as local they are not printed at length in this volume. A summary of each Order is given in the List of Statutory Rules and Orders of a Local Character under the heading BIRTHS, DEATHS AND MARRIAGES.

1962. No. 17 **[C]**

RESIDENT MAGISTRATES

Allocation of Pension

RULES, DATED 7TH FEBRUARY, 1962, MADE BY THE MINISTRY OF FINANCE UNDER SECTIONS 12 AND 13 OF THE RESIDENT MAGISTRATES' PENSIONS ACT (NORTHERN IRELAND), 1960.

The Ministry of Finance in exercise of the powers conferred on it by sections 12 and 13 of the Resident Magistrates' Pensions Act (Northern Ireland), 1960(a), and of all other powers enabling it in that behalf, hereby makes the following rules:—

Citation and commencement

1. These rules may be cited as the Resident Magistrates (Allocation of Pension) Rules (Northern Ireland), 1962, and shall come into operation on the 1st day of March, 1962.

Interpretation

2. In these rules—

"the Act" means the Resident Magistrates' Pensions Act (Northern Ireland), 1960;

"the Ministry" means the Ministry of Finance;

"resident magistrate" means any resident magistrate appointed after the passing of the Act or any resident magistrate who has elected, pursuant to section 11 of the Act, that the Act shall apply to him;

"pension" means an annual pension, and in relation to a retiring or retired resident magistrate means an annual sum granted under section 2 of the Act;

"make an allocation" means surrender a part of a pension under these rules;

"beneficiary" means the person in whose favour an allocation is to be made;

"Option Tables" means the tables prepared by the Ministry under sections 12 and 13 of the Act;

"closing date" means—

(*a*) in the case of a retiring resident magistrate referred to in paragraph (1) of rule 3, the day of his retirement (that is to say, the day

(a) 1960. c. 2.

preceding the first day in respect of which his pension is payable) or, if he was supplied by the Ministry of Home Affairs with a copy of these rules less than three months before the date of his retirement, the last day of a period of three months from the date on which he was supplied with a copy of these rules; and

(*b*) in the case of a retired resident magistrate referred to in paragraph (2) of rule 3, the last day of a period of three months from the date of the marriage following his retirement;

save that, if the Ministry, in either of the cases referred to, appoints a special closing date in accordance with the provisions of these rules, the expression "closing date" shall mean the date so appointed;

"lodged with the Ministry of Home Affairs" means lodged with such officer of that Ministry as that Ministry may direct.

Persons by whom, and in whose favour, an allocation may be made

3.—(1) An allocation may, subject to the provisions of these rules, be made in favour of a wife or a dependant by a retiring resident magistrate who is retiring from office otherwise than on the grounds of ill-health.

(2) An allocation may, subject to the provisions of these rules, be made in favour of a wife by a retired resident magistrate who—

(*a*) has retired from the office of resident magistrate otherwise than on the grounds of ill-health; and

(*b*) has married since retirement; and

(*c*) is under seventy years of age at the date of notification in accordance with rule 10.

Options as regards beneficiary's pension

4.—(1) A pension granted under the Act and these rules for the benefit of a wife may, at the option of the person making the allocation, be payable either—

(*a*) in respect of the period, if any, for which she survives him (hereafter to be known as Option A); or

(*b*) in respect both of the period of their joint lives subsequent to the date on which the allocation has effect, and of the period, if any, for which she survives him; and the rate of pension payable to her during the latter period shall be twice the rate payable to her during the former period (hereafter to be known as Option B).

(2) A pension granted under the Act and these rules for the benefit of a dependant (other than a wife) shall be payable in respect of the period, if any, for which the dependant survives the person making the allocation.

Amount of beneficiary's pension

5. The amount of pension payable in return for each £1 of pension surrendered under these rules shall be the amount, according to the age of the person making the allocation and the age and sex of the beneficiary, shown in the appropriate Option Table in force at the date on which the allocation has effect.

Method of payment of pension to beneficiary

6. The pension of the beneficiary shall be payable in arrear in the same manner as the pension of the person making the allocation is or would have been payable.

Extent to which pension may be allocated

7.—(1) A person shall not surrender—

(*a*) more than one-third of his pension; or

(*b*) so much of it as would make the amount of pension (as reduced by the amount surrendered) payable to him less than the amount of pension payable to the beneficiary after his death; or

(*c*) a smaller amount of his pension than would secure for the beneficiary after his death a pension equal to one-fourth of the amount of the pension (as reduced by the amount surrendered) payable to him; or

(*d*) an amount of his pension which is not an exact number of pounds.

(2) Where a person, being a retiring resident magistrate, has declared a desire to surrender more than one-third of his pension or where, being a retired resident magistrate, he has declared a desire to surrender such part of his pension as would alone or together with any part of his pension already surrendered by him as a retiring resident magistrate, exceed one-third of his pension, then the Ministry may make an award as if he had declared a desire to surrender the maximum amount which he is allowed to surrender hereunder.

Notification of date of retirement and furnishing of copies of rules and Option Tables

8.—(1) A retiring resident magistrate referred to in paragraph (1) of rule 3, who, upon retirement, will be eligible to make an allocation shall before the date of his retirement be notified by the Ministry of Home Affairs of the date, or probable date, of his retirement and shall at the same time be supplied with a copy of these rules and of the Option Tables for the time being in force.

(2) A retired resident magistrate referred to in paragraph (2) of rule 3 who becomes eligible to make an allocation shall, upon request to the Ministry of Home Affairs, be supplied by that Ministry with a copy of the Option Tables in force at the date of the marriage following his retirement.

Furnishing of estimates of pension and lump sum

9. For the purposes of enabling a resident magistrate who, upon retirement, will be eligible to make an allocation to consider the question of making an allocation, the Ministry of Home Affairs shall, if so requested by the resident magistrate after the receipt by him of a notification of the date, or probable date, of his retirement in accordance with rule 8, inform him as soon as practicable of the provisional estimate made by the Ministry of the amount of his pension and lump sum and of any alteration in that estimate, if any such alteration be subsequently made.

Notification of a desire to make an allocation

10. A person who, upon retirement, will be eligible, or who, upon marriage after retirement, becomes eligible, to make an allocation shall, if he desires to make such allocation, notify the Ministry of Home Affairs to that effect and shall furnish to that Ministry on the form R.M.A.P.1 or the form R.M.A.P.2 set out in the Schedule to these rules, whichever of the two forms is appropriate, the particulars required thereby in respect of the beneficiary. The beneficiary shall write his signature in the appointed space on the form unless the Ministry dispenses with such signature in accordance with paragraph (2) of rule 13.

Furnishing of certificates and other information

11.—(1) Upon receipt of the particulars required to be furnished by rule 10, the Ministry of Home Affairs shall require the person desiring to make an allocation to furnish at his own expense—

(*a*) a certified copy of his birth certificate, except where the date of birth is recorded by the Ministry of Home Affairs and is not disputed; and

(*b*) with respect to the beneficiary, a birth certificate, a marriage certificate (in the case of a woman who has been married) and any other information or evidence which the Ministry of Home Affairs may consider necessary.

(2) If for any reason a birth or marriage certificate cannot be supplied, the Ministry of Home Affairs may, with the consent of the Ministry, accept such other evidence of birth or marriage as it may think fit.

Proof of Health

12.—(1) For the purpose of satisfying the Ministry that a person who desires to make an allocation is of good health, the person shall be required to undergo an examination by a physician nominated by the Ministry, which examination, where the person is a retiring resident magistrate, shall not take place more than three months before the date of his retirement.

(2) If, on considering the result of the examination referred to in the preceding paragraph in conjunction with the person's sick leave record, the Ministry is not satisfied that the person is of good health, the Ministry shall notify him accordingly and shall offer him an opportunity of a further examination by a medical referee appointed by the Ministry of Health and Local Government.

(3) The fee payable to any physician or medical referee in respect of any medical examination under paragraphs (1) or (2) of this rule shall be paid by the person examined at the time of the examination.

(4) When, on considering the result of the medical examinations provided for under paragraphs (1) and (2) of this rule in conjunction with the person's sick leave record, the Ministry is not satisfied that the person is of good health but it appears to the Ministry that the disability from which he is suffering may be temporary and that there is a good prospect that he would be shown to be in good health if examined again after a short interval, then the Ministry may appoint a special closing date in order that a further medical examination may be arranged accordingly at a later date. Any fee required for such further medical examination shall be paid by the Ministry.

(5) If, as a result of an examination made by a medical referee in accordance with paragraph (2) of this rule, the Ministry is of opinion that there is doubt whether the person examined is of good health, it may offer him an opportunity to be examined by a medical board of three members appointed by the Ministry of Health and Local Government.

(6) Where an examination takes place in accordance with the preceding paragraph no fee in respect thereof shall be payable by the person examined and the Ministry may appoint a special closing date for the purposes of these rules.

(7) If, after the Ministry has decided, as a result of an examination by a medical referee made in accordance with paragraph (2) of this rule, that a person is not of good health, the person produces to it a report containing a contrary opinion made by a physician or surgeon of consultant standing who

had before him at the time he made the report a full statement of the person's sick leave record, the Ministry may offer the person an opportunity to be examined by a Medical Board constituted as provided in paragraph (5) of this rule and for the purpose of enabling such examination to take place the Ministry may appoint a special closing date for the purposes of these rules.

(8) When a person elects to be examined by a Medical Board in accordance with the foregoing paragraph of this rule he shall, prior to such examination, pay to the Ministry in respect thereof a fee of £3 3s. (or such amount as may be prescribed by the Ministry but not exceeding £3 3s.). Any such fee paid by a person shall be repaid to him if, as a result of the examination by the Medical Board, the Ministry decides that he is of good health.

(9) The decision of the Ministry upon the question whether a person desiring to make an allocation is of good health shall be final and conclusive.

(10) The physician and, in the case of further examinations the medical referee and the Medical Board, shall make their reports direct to the Ministry, and neither the contents of any such reports nor the reasons for the Ministry's decision shall be disclosed to the person examined.

(11) If, in any case in which the Ministry decides that a person is of good health, the date of retirement of the person is postponed to a date more than three months after the date of the last medical examination, the Ministry may, if it thinks fit, require the person to undergo such further medical examination as it may direct but in that event the person shall not be required to pay any fees in respect of such further medical examination.

Furnishing of beneficiary's signature

13.—(1) If the Ministry decides that the person desiring to make an allocation is of good health and the Ministry of Home Affairs is satisfied with the evidence and particulars furnished to it in accordance with rule 10, the Ministry of Home Affairs shall request the person to arrange for the beneficiary to write his usual signature in duplicate in the presence of such officer of that Ministry, or such other person, as that Ministry may nominate, and in deciding whom to nominate for that purpose, the Ministry of Home Affairs shall, so far as possible, have regard to the convenience of the beneficiary.

(2) Where it is shown to the satisfaction of the Ministry that by reason of inability through infirmity or other sufficient cause, the beneficiary is unable to write his signature as required by this rule and by rule 10, the Ministry may, if it thinks fit, dispense with the beneficiary's signature, subject to such conditions as it may deem desirable.

Procedure as regards allocation declaration

14.—(1) If the Ministry of Home Affairs has no reason to doubt that the person who has written his signature as required by rule 13 is the person named as the beneficiary in the particulars required to be furnished by rule 10, the Ministry of Home Affairs shall notify the person desiring to make an allocation that he may make an allocation declaration.

(2) Every allocation declaration shall be made in the form R.M.A.P.3 set out in the Schedule to these rules and shall be lodged with the Ministry of Home Affairs before midnight of the closing date.

(3) An allocation declaration which is not lodged with the Ministry of Home Affairs before midnight of the closing date, or which does not comply with these rules, shall be invalid.