

1968. No. 124

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SUPERANNUATION**Allocation of Part of Pension**

RULES, DATED 23RD MAY 1968, MADE BY THE MINISTRY OF FINANCE UNDER SECTIONS 44 AND 45 OF THE SUPERANNUATION ACT (NORTHERN IRELAND) 1967.

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The Ministry of Finance, in exercise of the powers conferred on it by sections 44 and 45 of the Superannuation Act (Northern Ireland) 1967(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 Superannuation (Allocation of Pension) Rules (Northern Ireland) 1968 and shall come into operation on 1st July 1968.

(a) 1967. c. 24 (N.I.).

Interpretation

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

“beneficiary” means the person in whose favour an allocation is made;

“the civil service” means the civil service of Northern Ireland;

“closing date” has the meaning assigned to it by rule 19(3);

“the Commissioners” means the Civil Service Commissioners for Northern Ireland;

“the Department” means, in relation to any person, the Department in which he is serving or, as the case may be, in which he last served before his retirement;

“lodged with the Department” means lodged with such officer of the Department as the Department may direct;

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

“notional graduated retirement benefit” means, in relation to any person, the amount of the minimum rate of equivalent pension benefits applicable under the provisions of Part III of the National Insurance Act (Northern Ireland) 1966(b), as amended from time to time, in respect of so much of the period of service in respect of which that person’s pension is payable as is service in a non-participating employment within the meaning of section 55(1) of that Act;

“Option Tables” means the tables prepared by the Ministry of Finance under sections 44 and 45 of the Superannuation Act;

“pension” means an annual pension and, in relation to a person eligible to make an allocation under these rules, means an annual superannuation, compensation or retiring allowance under the Superannuation Act;

“the Superannuation Act” means the Superannuation Act (Northern Ireland) 1967.

(2) For the purposes of the references in these rules to the beginning of the period in respect of which a pension is payable or to the first day in respect of which a pension is payable, any suspension of a pension under section 12 of the Superannuation Act (cessation or reduction of annual allowance on re-employment) shall be disregarded.

Revocations and saving

3.—(1) The Superannuation (Allocation of Pension) Rules (Northern Ireland) 1936(c), the Superannuation (Allocation of Pension) Rules (Northern Ireland) 1947(d), the Superannuation (Allocation of Pension) Rules (Northern Ireland) 1951(e), the Superannuation (Allocation of Pension) (Amendment) Rules (Northern Ireland) 1964(f) and the Superannuation (Allocation of Pension) (Amendment) (No. 2) Rules (Northern Ireland) 1964(g) are hereby revoked.

(2) The revocation of any rules by these rules shall not affect any pension granted before the coming into operation of these rules.

Allocation to spouse or other dependant on grant of pension

4. Subject to the provisions of these rules, a person to whom a pension is or has been granted under the Superannuation Act, otherwise than on retirement (from the civil service or other employment) on the ground of ill health, shall be allowed to make an allocation under this rule in favour of his spouse or a dependant of his:

(b) 1966. c. 6 (N.I.).

(c) S.R. & O. (N.I.) 1936, No. 150.

(d) S.R. & O. (N.I.) 1947, No. 124.

(e) S.R. & O. (N.I.) 1951, No. 7.

(f) S.R. & O. (N.I.) 1964, No. 137.

(g) S.R. & O. (N.I.) 1964, No. 138.

Provided that a person whose pension has been granted before the coming into operation of these rules, and who has married since the grant of his pension, shall not be allowed to make an allocation under this rule in favour of his spouse.

Allocation to spouse on marriage after grant of pension

5. Subject to the provisions of these rules, a person—

- (a) to whom a pension has been granted under the Superannuation Act, otherwise than on retirement (from the civil service or other employment) on the ground of ill health, and
- (b) who has married since the grant of the pension and is under seventy years of age at the date of notification in accordance with rule 12,

shall be allowed to make an allocation under this rule in favour of his spouse.

Duration of beneficiaries' pensions

6.—(1) Where a person makes an allocation under these rules in favour of his spouse, the Ministry of Finance may grant to his spouse a pension which—

- (a) if the person making the allocation exercises the option to be known as Option A, shall be payable in respect of the period, if any, for which the spouse survives the person making the allocation, or
- (b) if the person making the allocation exercises the option to be known as Option B, shall be payable in respect both of the period of their joint lives beginning with the date as from which that person's allocation declaration has effect under paragraph (2) or paragraph (4) of rule 26 and of the period, if any, for which the spouse survives the person making the allocation.

(2) Where a pension is payable for the periods specified in paragraph (1)(b), the rate of pension payable to the spouse during the second period shall be twice the rate payable to the spouse during the first period.

(3) Where a person makes an allocation under these rules in favour of a dependant (other than a spouse), the Ministry of Finance may grant to such dependant a pension which shall be payable in respect of the period, if any, for which the dependant survives the person making the allocation.

Amount of beneficiaries' pensions

7. The amount of pension payable for each £1 of a person's pension surrendered by him shall be the amount, according to the age and sex 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 from which the person's allocation declaration has effect under paragraph (2) or paragraph (4) of rule 26.

Payment of beneficiaries' pensions

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

Limits on amount of pension surrendered

9.—(1) A person making an allocation under rule 4 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 the death of the person making the allocation; or
- (c) so much of it as would make the amount of pension (as reduced by the amount surrendered) payable to him less than his notional graduated retirement benefit; or
 - (d) an amount of his pension which is not an exact number of pounds.
- (2) A person making an allocation under rule 5 shall not surrender—
- (a) a greater part of his pension than would, either alone or together with any part of his pension of which a surrender has been allowed under rule 4 or under the Superannuation (Allocation of Pension) Rules (Northern Ireland) 1936 and has not been cancelled under section 30(2) of the Superannuation Act (Northern Ireland) 1949(h), amount to 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 the death of the person making the allocation; or
 - (c) so much of it as would make the amount of pension (as reduced by the amount surrendered) payable to him less than his notional graduated retirement benefit; or
 - (d) an amount of his pension which is not an exact number of pounds.

(3) Where a person has declared a desire to surrender such part of his pension as would, either alone or together with any part of his pension already surrendered under rule 4 or under the Superannuation (Allocation of Pension) Rules (Northern Ireland) 1936, exceed one-third of his pension, then the Ministry of Finance may make an award as if he had declared a desire to surrender the maximum amount which he is allowed to surrender under this rule.

Notification to persons eligible to make an allocation

10.—(1) Any person who, being in receipt of a pension, is, at the date of the coming into operation of these rules, eligible to make an allocation under rule 4, but who was not eligible to make an allocation under the Superannuation (Allocation of Pension) Rules (Northern Ireland) 1936, shall be notified by the Ministry of Finance of the making of these rules as soon as possible thereafter, and, upon request, shall be supplied with a copy of these rules and of the Option Tables.

(2) Any person who, having retired before the date of the coming into operation of these rules, and being eligible for the grant of a pension on the attainment of a certain age after that date, will, if such pension is granted, become eligible to make an allocation under rule 4, shall, as soon as possible after he has applied for the grant of such pension, be notified by the Ministry of Finance of the making of these rules, and, upon request, shall be supplied with a copy of these rules and of the Option Tables.

(3) Any person who retires from the civil service after the date of the coming into operation of these rules, and, being eligible for the grant of a pension on the attainment of a certain age after that date, will, if such pension is granted, become eligible to make an allocation under rule 4, shall on his retirement, and also, upon request, at any time within six months before he attains that age, be supplied by the Department with a copy of these rules and of the Option Tables.

(4) Any person who retires from the civil service after the coming into operation of these rules, and, being eligible for the grant of a pension on his retirement, will, if such pension is granted, become eligible to make an allocation under rule 4, shall be notified by the Department 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.

(5) Where possible, in cases of retirement on the ground of age, notification under paragraph (4) shall be given at least six months before the date, or probable date, of retirement.

(6) Where in any case after notification has been given to any person under paragraph (4), the date, or probable date, of his retirement is altered, he shall be notified by the Department of the alteration in the date of his retirement as soon as possible after the altered date has been determined.

Provisional estimate of amount of pension

11. For the purposes of enabling a person who, upon being granted a pension, will be eligible to make an allocation to consider the question of making an allocation, the Department shall, if so requested by that person within six months before the date, or probable date, of the beginning of the period in respect of which the pension will be payable, inform him as soon as practicable of the provisional estimate made by the Ministry of Finance of the amount of his pension and additional allowance (if any) and of any alteration in that estimate, if any such alteration be subsequently made.

Notification of desire to make an allocation

12. Any person who is or becomes eligible to make an allocation shall, if he desires to make such an allocation, notify the Department to that effect and shall furnish to the Department on the form provided for the purpose the particulars required thereby in respect of the beneficiary; and the beneficiary shall write his signature in the appointed space on the form, unless the Ministry of Finance dispenses with his signature in accordance with paragraph (2) of rule 17.

Evidence required by Department

13.—(1) Upon receipt of the particulars required to be furnished by rule 12, the Department shall require the person concerned to furnish at his own expense—

- (a) a certified copy of his birth certificate, except where the date of his birth is recorded in his Civil Service Certificate 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 Department may consider necessary.

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

Medical examination of person desiring to make an allocation

14.—(1) On receipt from a person of notification, in accordance with rule 12, of his desire to make an allocation and of the form referred to in that rule duly completed, the Department shall send to the Commissioners the person's sick leave record and shall request the Commissioners to report whether, in their opinion, he is of good health, regard being had to his age.

(2) For the purposes of making their report, the Commissioners shall forthwith arrange for the person concerned to be medically examined by a physician nominated by the Commissioners.

(3) If, on considering the result of that examination, in conjunction with the person's sick leave record, the Commissioners are not satisfied that he is of good health, they shall notify him accordingly and shall offer him an opportunity of a further examination by such one of their medical referees as they may select.

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

(5) When, on considering the result of the medical examinations provided for under paragraphs (2) and (3) in conjunction with the person's sick leave record, the Commissioners are not satisfied that he is of good health, but it appears to the Commissioners 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 after a short interval, then the Ministry of Finance may, at the request of the Commissioners, appoint a special closing date in order that a further medical examination may be arranged accordingly at a later date; and any fee required for such further medical examination shall be paid by the Commissioners.

(6) If, as a result of an examination by a medical referee made in accordance with paragraph (3), the Commissioners are of opinion that there is doubt whether the person examined is of good health, they may offer him an opportunity to be examined by a Medical Board of three members appointed by them.

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

(8) If, after the Commissioners have decided, as a result of an examination by a medical referee made in accordance with paragraph (3), that the person examined is not of good health, that person produces to them 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 Commissioners may offer the person concerned an opportunity to be examined by a Medical Board constituted as provided in paragraph (6), and for the purpose of enabling such examination to take place the Ministry of Finance may appoint a special closing date for the purposes of these rules.

(9) When a person elects to be examined by a Medical Board in accordance with the last preceding paragraph, he shall, prior to such examination, pay to the Commissioners in respect thereof a fee of £6 6s. 0d. (or such amount as may be prescribed by the Commissioners, but not exceeding £6 6s. 0d.); any such fee paid by any person shall be repaid to him if, as a result of the examination by the Medical Board, the Commissioners decide that he is of good health.

Civil Service Commissioners' decision on health to be final

15.—(1) The decision of the Commissioners upon the question whether a person is of good health shall be final and conclusive.

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

Further medical examination in case of postponed retirement

16. If, in any case in which the Commissioners report that in their opinion a person is of good health, the date of that person's retirement is postponed to a date more than three months after the date of the Commissioners' report, the Ministry of Finance may, if it thinks fit, require him to undergo such further medical examination as it may direct, but in that event he shall not be required to pay any fees in respect of such further medical examination.

Beneficiary's signature

17.—(1) If the Commissioners report to the Department that in their opinion a person is of good health and the Department is satisfied with the evidence and particulars furnished to it by that person in accordance with rule 13, the Department shall request him to arrange for the beneficiary to write his usual signature in duplicate in the presence of such officer of the Department, or such other person, as the Department may nominate, and, in deciding whom to nominate for that purpose, the Department shall, so far as possible, have regard to the convenience of the beneficiary.

(2) Where it is shown to the satisfaction of the Ministry of Finance that, by reason of the beneficiary's inability through infirmity or other sufficient cause, he is unable to write his signature as required by this rule and by rule 12, the Ministry of Finance may, if it thinks fit, dispense with the beneficiary's signature, subject to such conditions as it may deem desirable.

Notification that allocation declaration may be made

18. If the Department has no reason to doubt that the person who has written his signature as required by rule 17 is the person named as the beneficiary in the particulars required to be furnished by rule 12, the Department shall notify the person desiring to make an allocation that he may make an allocation declaration.

Allocation declaration and closing date

19.—(1) Every allocation declaration shall be made in the form set out in the Schedule, and shall be lodged with the Department before midnight of the closing date.

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

(3) For the purposes of these rules, "closing date" means—

(a) in the case of a person who at the date of these rules is eligible to make an allocation under rule 4, but who was not eligible to make an allocation under the Superannuation (Allocation of Pension) Rules (Northern Ireland) 1936, the last day of the period of six months beginning with the date on which he was notified by the Ministry of Finance of the making of these rules or the last day of the period of three months beginning with the date on which he was supplied with a copy of these rules, whichever is the earlier;

- (b) in the case of any other person who is eligible to make an allocation under rule 4, the day preceding the first day in respect of which his pension is payable or, if he was supplied by the Department with a copy of these rules less than three months before such first day as aforesaid, the last day of the period of three months beginning with the date on which he was supplied with a copy of these rules; and
- (c) in the case of a person who is eligible to make an allocation under rule 5, the last day of the period of three months beginning with the date of his marriage:

Provided that where the Ministry of Finance appoints a special closing date under these rules, the expression "closing date" shall mean the date so appointed by the Ministry of Finance.

Notification as to validity of allocation declaration

20. As soon as possible after the receipt of an allocation declaration the Department shall inform the person concerned whether such declaration is valid or invalid, and shall in the former case furnish him with a statement or estimate of the pensions that will be payable to himself and to the beneficiary, and in the latter case state the grounds upon which the declaration has been held to be invalid.

Cancellation or amendment of allocation declaration

21.—(1) A person who desires to make an allocation under rule 4, and who lodges an allocation declaration with the Department before the beginning of the period in respect of which his pension is payable, may cancel or amend that declaration by notice in writing lodged with the Department on the form provided for the purpose at any time before midnight on the day preceding the first day in respect of which his pension is payable, but, save as is provided in rule 22, he may not cancel or amend his allocation declaration after that time.

(2) Save as is provided in rule 22, an allocation declaration which is lodged with the Department after the beginning of the period in respect of which the pension of the person making the declaration is payable may not be cancelled or amended.

Amendment of allocation declaration after alteration of amount of pension

22. Where a person who, in accordance with rule 11, has been informed of the provisional estimate made by the Ministry of Finance of the amount of his pension and additional allowance (if any) is subsequently notified by the Department of an alteration in the amount, or the estimated amount, of his pension less than fourteen days before the closing date, or after the closing date but within six months after the beginning of the period in respect of which his pension is payable, he may, if he has already made a valid allocation declaration, amend that declaration by notice in writing on the form provided for the purpose lodged with the Department before midnight of the fourteenth day after the receipt of such notification:

Provided that no notice of an amendment of an allocation declaration may be lodged with the Department after the closing date—

- (a) except for the purpose of increasing or decreasing the amount of the pension to be surrendered by an amount not exceeding the increase or decrease (to the nearest pound) in the amount, or the estimated amount, of pension previously notified to such person in accordance with rule 11; or

- (b) in any case, in respect of any alteration of the amount, or the estimated amount, of pension resulting from a decision affecting all, or a particular category of, civil service pensioners.

Amended allocation declaration to comply with rules

23. An amendment of an allocation declaration shall not be valid if the allocation declaration as so amended does not comply with these rules.

Time of lodging of documents sent by post

24. If any notice, declaration or other document is sent through the post, it shall not be deemed to be lodged with the Department within the time prescribed by these rules unless it is posted at a time which will normally ensure its due delivery within the time so prescribed.

Allocation declaration to be valid after alteration of amount of pension

25. Where a person has been informed, in pursuance of rule 20, that an allocation declaration made by him is valid, that declaration shall remain valid, unless cancelled or amended by him in the manner and within the period permitted by these rules, notwithstanding that, as the result of a subsequent alteration of the amount, or estimated amount, of his pension, the amount of pension to be surrendered no longer complies with rule 9.

Effective date of allocation declaration

26.—(1) An allocation declaration made by a person making an allocation under rule 4 shall become null and void if either that person or the beneficiary dies before midnight on the day preceding the first day in respect of which that person's pension is payable or before midnight on the day on which the allocation declaration is lodged with the Department, whichever day is the later.

(2) Subject to the last preceding paragraph, an allocation declaration made by a person making an allocation under rule 4 shall have effect—

(a) in the case of a person whose pension is granted on or after 7th August 1966, as from the first day in respect of which his pension is payable; and

(b) in the case of a person whose pension was granted before 7th August 1966, as from the date on which his allocation declaration is lodged with the Department.

(3) An allocation declaration made by a person making an allocation under rule 5 shall become null and void if either that person or the beneficiary dies before midnight on the day on which the allocation declaration is lodged with the Department.

(4) Subject to the last preceding paragraph, an allocation declaration made by a person making an allocation under rule 5 shall have effect as from the date of the marriage of the person making the allocation.

(5) Where as the result of effect being given to an allocation declaration lodged with the Department after the beginning of the period in respect of which the pension of the person making the allocation is payable or after his marriage, as the case may be, any overpayment of pension has been made to him or a beneficiary, such overpayment shall be brought into account on the next payment or payments of pension to the person concerned.

Special closing date in certain cases

27. Where the Ministry of Finance is satisfied that as a result of exceptional circumstances beyond the control of an officer eligible to make an allocation, it is not or has not been practicable for that officer to carry through in due time all the steps necessary to enable him to make an allocation, then the Ministry of Finance may appoint a special closing date for the purpose of these rules.

Persons transferred to certain other employments

28. Where a person, having served in the civil service, is transferred to some other employment, and will, if he retires from that employment in certain circumstances, be qualified for a superannuation allowance under the Superannuation Act in respect of his service in the civil service, the Department in which he was serving immediately before his transfer shall, upon such transfer, and also, if requested so to do, at any time within six months before his retirement from his other employment, supply him with a copy of these rules and of the Option Tables in force; and, for the purpose of the application of these rules to that person, that Department shall be deemed to be the Department.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 23rd day of May 1968.

(L.S.)

R: M. MacDonald,
Assistant Secretary.

SCHEDULE

Rule 19

Form of allocation declaration
Allocation declaration under the
SUPERANNUATION (ALLOCATION OF PENSION) RULES
(NORTHERN IRELAND) 1968

I,, hereby declare that I desire to surrender £ of my pension under the Superannuation (Allocation of Pension) Rules (Northern Ireland) 1968 in return for the grant of a pension payable in accordance with Option to, the beneficiary named by me under rule 12.

Signature

Date

Department from which retiring or retired

Rank on retirement

EXPLANATORY NOTE

(This note is not part of the rules but is intended to indicate their general purport.)

These rules consolidate with amendments the previous sets of rules governing the allocation of part of a pension under the Superannuation Act in favour of a spouse or other dependant. They extend eligibility to allocate to officers who retire before reaching their retiring age in circumstances which make them eligible for the grant of a pension when they reach their retiring age: such officers become eligible to allocate as from the date on which their pension is granted.