PAYMENT OF HIGHER REMUNERATION

Paragraph 20.

The statutory minimum remuneration set out in this Schedule is without prejudice to workers' earning higher rates of wages or to agreements made, or that may be made, between employers and workers for the payment of remuneration in excess of the statutory minimum.

EXPLANATORY NOTE

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

This Order, which comes into operation on 2nd April, 1962, sets out the statutory minimum remuneration payable in substitution for that fixed by the Brush and Broom Wages Council (Northern Ireland) Wages Regulation Order, 1948 (Order N.I.B.B. (56)), as amended by Part I of the Schedule to the Brush and Broom Wages Regulation (Amendment) Order (Northern Ireland), 1960 (Order N.I.B.B. (83)). Order N.I.B.B. (56) and Part I of the Schedule to Order N.I.B.B. (83) are revoked.

New provisions in the Schedule are printed in italics.

1962. No. 52 **[C]**

SUPERANNUATION

Interchange between the Teaching Service in England and Wales and the Civil Service of Northern Ireland

RULES, DATED 21ST MARCH, 1962, MADE BY THE MINISTRY OF FINANCE UNDER SECTIONS 5, 6 AND 10 OF THE SUPERANNUATION (MISCELLANEOUS PROVISIONS) ACT (NORTHERN IRELAND), 1951.

The Ministry of Finance in exercise of the powers conferred on it by sections 5, 6 and 10 of the Superannuation (Miscellaneous Provisions) Act (Northern Ireland), 1951(a), and of all other powers enabling it in that behalf, hereby makes the following rules:—

PART I

GENERAL

Citation and commencement

1. These rules may be cited as the Superannuation (Teaching Service in England and Wales and Civil Service of Northern Ireland) Interchange Rules (Northern Ireland), 1962, and shall come into operation on the 1st day of April, 1962.

Interpretation

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

(a) 1951. c. 28.

"the Act" means the Superannuation (Miscellaneous Provisions) Act (Northern Ireland), 1951;

"the Act of 1925" means the Teachers (Superannuation) Act, 1925(**a**);

"the Superannuation Acts" means the Superannuation Acts (Northern Ireland), 1921 to 1958, and includes any enactments thereby applied to the civil service of Northern Ireland;

"the Teachers Acts" means the Teachers (Superannuation) Acts, 1918 to 1956;

"teacher" includes any person who is treated as a teacher for the purposes of the Teachers Acts;

"civil servant" means a person serving in an established capacity in the permanent civil service of Northern Ireland;

"contributions" means contributions payable by or in respect of a teacher under the Teachers Acts;

"contributory service" and "recognised service" have the same meanings respectively as they have under the Teachers Acts except that they do not include—

(*a*) service which is treated as recognised or contributory service under paragraph (*g*) of sub-section (2) of section 13 of the Act of 1925; or

(*b*) service which, under the provisions of any scheme made under paragraph (*c*) of sub-section (1) of section 21 of the Act of 1925, is treated in the same manner as service which is approved external service under section 13 of the Act of 1925; or

(*c*) recognised or contributory service in respect of which the person in question has received a return of contributions under the Teachers Acts (not being a return of contributions after last ceasing to be employed in contributory service) which he has not subsequently repaid to the Minister under the proviso to sub-section (2) of section 12 of the Act of 1925; or

(*d*) service which is treated as recognised or contributory service merely for the purpose of determining whether the person in question has completed the period of service required by the Teachers Acts as necessary for any pension to be paid to or in respect of him or merely for that purpose and for the purpose of assessing his average salary under those Acts;

"the Minister" means the Minister of Education for England and Wales;

"national service" in relation to any person means service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(**b**), and includes service immediately following such service as aforesaid, being service in any of Her Majesty's naval, military or air forces pursuant to a voluntary engagement entered into with the consent of the Head Officer of the Department in which, or of the authority or body by whom, he was employed before undertaking the service;

"pension" has the meaning assigned to it by the Act;

"contributing service" and "contributory employee" have the meanings respectively assigned to them by the Local Government Superannuation Act, 1937(**c**);

"transfer value" has the same meaning as "accrued superannuation value" as that expression is defined in the Act.

(**a**) 15 & 16 Geo. 5. c. 59. (**b**) 14 & 15 Geo. 6. c. 65. (**c**) 1 Edw. 8 & 1 Geo. 6. c. 68.

PART II

TRANSFER FROM CONTRIBUTORY SERVICE TO THE CIVIL SERVICE

Application

3.—(1) This part shall apply to any person who—

(*a*) either—

(i) becomes a civil servant within twelve months after ceasing to be employed in contributory service, or

(ii) having been appointed to a post in the permanent civil service of Northern Ireland within twelve months after ceasing to be employed in contributory service becomes employed as a civil servant, but, owing to causes which in the opinion of the Ministry of Finance and the Minister are reasonable, does not become so employed until after the expiration of such twelve months; and

(*b*) has not become entitled to a pension other than a return of contributions under the Teachers Acts; and

(*c*) within three months after the date on which he becomes a civil servant or within six months after the date of the coming into operation of these rules, whichever period last expires, notifies the Ministry of Finance in writing that he desires these rules to apply to him, and furnishes that Ministry with particulars of his previous recognised service (if any) and his contributory service; and

(*d*) if he has received any payment by way of return of contributions after last ceasing to be employed in contributory service, pays a sum equal to such payment to the Ministry of Finance within three months after the date on which he becomes employed as a civil servant or within six months after the date of the coming into operation of these rules, whichever period last expires, or within such longer period as the Ministry of Finance and the Minister may allow in any particular case.

(2) This part shall apply to such person as aforesaid and shall be deemed always to have applied to him notwithstanding that he ceased to be employed in contributory service or became a civil servant before the passing of the Act or the coming into operation of these rules provided that—

(*a*) he is a civil servant at the date of the coming into operation of these rules; and

(*b*) he ceased to be employed in contributory service not earlier than the 1st day of April, 1950; and

(*c*) the Minister consents.

(3) In this part a person to whom this part applies is referred to as "the officer".

Reckoning of Service

4.—(1) If in respect of recognised or contributory service of the officer, other than contributory service under a scheme made under paragraph (*a*) of sub-section (1) of section 21 of the Act of 1925, the Ministry of Finance receives from the Minister a transfer value calculated in accordance with a method approved by the said Ministry less an amount equal to any sum which may become payable by way of income tax in respect thereof, the period of service taken into account in the transfer value shall, subject to and in accordance with the provisions of this part, be reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant:

Provided that any period of contributory service which was not reckonable for the purpose of determining whether the officer had served for the minimum period prescribed by the Teachers Acts as necessary for any pension to be paid to him shall not be reckoned as service in the capacity of a civil servant for the purpose of determining whether the officer has served for the minimum period prescribed by the Superannuation Acts as necessary for any pension to be paid to or in respect of him.

(2) For the purpose of determining whether the officer has served for the minimum period prescribed by the Superannuation Acts as necessary for any pension to be paid to or in respect of him, service which—

(*a*) is contributory service under a scheme made under paragraph (*a*) of sub-section (1) of section 21 of the Act of 1925; or

(*b*) by virtue of its being approved external service for the purposes of section 13 of the Act of 1925 or of its being treated in the same manner as such approved external service, was, immediately before the officer last ceased to be employed in contributory service, reckonable for the purpose of determining whether he had served for the minimum period prescribed by the Teachers Acts as necessary for any pension to be paid to him

shall be reckoned as service in the capacity of a civil servant.

Continuation of additional contributions in respect of previous employment

5. Where the officer was at the date on which he ceased to be employed in contributory service in course of making contributions additional to those required by section 9 of the Act of 1925 as a condition of being entitled to reckon previous employment, that employment shall not be reckoned as service in the capacity of a civil servant under the last preceding rule unless the officer pays to the Ministry of Finance sums equal to the additional contributions which he would have been liable to make had he remained in contributory service at the times at which and in the manner in which they would have been payable.

Outstanding contributions in respect of war service and national service

6. Where the contributory service of the officer includes a period of war service within the meaning of the Teachers Superannuation (War Service) Act, 1939(**a**), or a period of national service within the meaning of the Teachers Superannuation (National Service) Rules, 1949(**b**), but any sum due in respect of contributions in respect of the whole or any part of such war service or national service payable by the officer in accordance with the aforesaid Act or the aforesaid Rules has not been paid to the Minister at the date of payment of the transfer value, then, unless the sum outstanding which shall include any sum due by virtue of sub-section (3) of section 2 or paragraph (*b*) of sub-section (2) of section 3 of the said Act of 1939 is paid by the officer to the Ministry of Finance within three months after the date on which he becomes a civil servant or within six months after the date of the coming into operation of these rules, whichever period last expires, or within such longer period as the Ministry of Finance may allow in any particular case, the service in respect of which payment is not made shall not be reckonable as service in the capacity of a civil servant.

Return of contributions

7. Where the officer ceases to be employed as a civil servant in circumstances in which he is not eligible for a superannuation allowance under the

(**a**) 2 & 3 Geo. 6. c. 95. (**b**) S.I. 1949, No. 468.

Superannuation Acts or in which his service in the capacity of a civil servant is not transferable to some other superannuation system by virtue of rules made under section 6 of the Act or by virtue of any other arrangements, the Ministry of Finance may pay to or in respect of him whichever is the greater of the following sums:—

(*a*) a sum equal to the sum which might have been paid to or in respect of him by way of a return of contributions under the Teachers Acts, if when he ceases to be employed as a civil servant he had ceased to be employed in contributory service in similar circumstances; or

(*b*) such a sum as the officer may be eligible to receive or as may be paid in respect of him under the Superannuation Acts by way of a short service gratuity or a death gratuity.

Application of certain provisions of the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland), 1948

8. Paragraph (3) of Regulation 4 of the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland), 1948(a), shall have effect with respect to the officer as if the reference in the said paragraph to teaching service as defined therein included a reference to teaching service which is reckonable as service in the capacity of a civil servant under these rules.

PART III

PAYMENT OF TRANSFER VALUES IN RESPECT OF PERSONS TRANSFERRING FROM THE CIVIL SERVICE TO CONTRIBUTORY SERVICE

Application

9.—(1) This part shall apply to any person who—

(*a*) either—

(i) becomes employed in contributory service within twelve months after ceasing to be employed as a civil servant, or

(ii) having become engaged in national service immediately after leaving his employment as a civil servant, becomes employed in contributory service within six months after the termination of such national service; and

(*b*) has before changing his employment as aforesaid obtained from the Head Officer of the Department in which he ceased to be employed consent to his employment in contributory service; and

(*c*) has not become eligible for a pension under the Superannuation Acts; and

(*d*) within three months after the date on which he becomes employed in contributory service or within six months after the date of the coming into operation of these rules, whichever period last expires, notifies the Minister in writing that he desires these rules to apply to him and furnishes the Minister with particulars of his service as a civil servant and any national service in which he has been engaged since he ceased to be a civil servant.

(2) In determining whether for the purposes of sub-paragraph (*a*) of paragraph (1) of this rule—

(a) S.R. & O. (N.I.) 1948, No. 91.

(*a*) a person has become employed in contributory service within twelve months after ceasing to be employed as a civil servant or within six months after the termination of his national service; or

(*b*) a person has become engaged in national service immediately after leaving his employment as a civil servant,

the whole or part of any period which, after leaving his employment as a civil servant, the person has spent on a course of study or training approved by the Ministry of Finance on written application made by him before or within three months after the commencement of the course shall, if the Ministry of Finance so direct, be disregarded:

Provided that this paragraph shall not apply to any person unless the Minister is satisfied that by reason of his having undertaken the said course of study or training he is better fitted for employment in contributory service.

(3) This part shall apply to such a person as aforesaid and shall be deemed always to have applied to him notwithstanding that he ceased to be employed as a civil servant or became employed in contributory service before the passing of the Act or the coming into operation of these rules, provided that—

(*a*) a superannuation allowance has not been granted to him under the Teachers Acts; and

(*b*) he ceased to be employed as a civil servant not earlier than the 1st day of April, 1950; and

(*c*) the Ministry of Finance consents.

(4) In this part a person to whom this part applies is referred to as "the officer".

Transfer values payable

10.—(1) The Ministry of Finance may upon these rules becoming applicable to the officer pay to the Minister a transfer value of an amount equal to the transfer value which would have been payable under the regulations for the calculation of transfer values for the time being in force, if the officer, instead of ceasing to be a civil servant, had ceased to be a contributory employee under one local authority and had become such employee under another local authority, and for the purpose of calculating such amount, his service as a civil servant shall be deemed to have been contributing service and, as such, to have been affected or modified in accordance with regulations applicable to contributing service made in connection with the passing of the National Insurance Acts, 1946(**a**) and 1959(**b**) in like manner and to the like extent, as nearly as may be, as his service as a civil servant was affected or modified in accordance with regulations made in connection with the passing of the National Insurance Acts (Northern Ireland), 1946(**c**) and 1959(**d**):

Provided that—

(*a*) where the officer ceased to be employed as a civil servant more than twelve months before the coming into operation of these rules, the age which shall be taken into account for the purpose of the calculation of the transfer value payable under this rule shall be his age on the date of the coming into operation of these rules; and

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(a) 9 & 10 Geo. 6. c. 67.
(b) 7 & 8 Eliz. 2. c. 47.
(c) 1946. c. 23.
(d) 1959. c. 21.

(*b*) where paragraph (2) of rule 9 becomes applicable to the officer, the age which shall be taken into account for the purpose of calculating the transfer value payable under this rule shall be his age when he becomes employed in contributory service; and

(*c*) the transfer value payable under this rule shall be reduced by any sum which may become payable by way of income tax in respect thereof.

(2) Where the officer immediately after leaving his employment as a civil servant and before becoming employed in contributory service became engaged in national service, the period of his service as a civil servant which is to be taken into account for the purpose of the calculation of the transfer value payable under this rule shall include any period of national service which would have been reckonable as service as a civil servant had the officer again become employed as a civil servant on the termination of such national service.

Outstanding payments in respect of previous employment

11. Where the officer was at the date on which he ceased to be employed as a civil servant in course of making any payments as a condition of reckoning previous employment, the right to receive the balance of the said payments shall be transferred to the Minister.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 21st day of March, nineteen hundred and sixty-two, in the presence of

(L.S.) *C. J. Bateman,*
Assistant Secretary.

EXPLANATORY NOTE

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

The purpose of these rules is to preserve continuity of superannuation rights of persons who transfer between teaching service in England and Wales and the Civil Service of Northern Ireland.

The rules provide—

(*a*) that if a person in employment in the teaching service in England and Wales transfers within a prescribed period to an established post in the Civil Service and a transfer value is paid to the Ministry of Finance the period of employment in teaching service in respect of which the transfer value is paid may be reckoned for civil service superannuation; and

(*b*) that if a civil servant transfers within a prescribed period to employment in the teaching service in England and Wales a transfer value may be paid by the Ministry to the Great Britain authority.

In the case mentioned at (*b*), provision is being made by the Great Britain authority for the period of employment in the Civil Service to be reckoned as teaching service.

Under express powers in sections 5 and 6 of the parent Act the rules have a limited retrospective effect, but the retrospective provisions will apply only at the election of the person concerned and with the consent of the authority which becomes liable to pay a transfer value.