1957 No. 1122 (S. 61)

The Superannuation (Local Government and Northern Ireland Civil Service) Interchange (Scotland) Rules, 1957

Made - - - -	*25th June*, 1957
Laid before Parliament	*4th July*, 1957
Coming into Operation	*15th July*, 1957

In exercise of the powers conferred on me by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), and of all other powers enabling me in that behalf, I hereby make the following rules:—

PART I

General

Citation and commencement

1. These rules may be cited as the Superannuation (Local Government and Northern Ireland Civil Service) Interchange (Scotland) Rules, 1957, and shall come into operation on the fifteenth day of July, 1957.

Interpretation

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

"the Act" means the Superannuation (Miscellaneous Provisions) Act, 1948;

"the Act of 1909" means the Asylums Officers' Superannuation Act, 1909(b);

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

"the Act of 1953" means the Local Government Superannuation Act, 1953(d);

"the Acts of 1937 to 1953" means the Local Government Superannuation (Scotland) Acts, 1937 to 1953;

"added years" means—

(*a*) in relation to a person in local government service, any additional years of service reckonable by him under regulation 12 of the benefits regulations or any corresponding provision of a local Act scheme, and includes any additional years of service which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become and are reckonable under or by virtue of rules made under section 2 of the Act or any other enactment;

(a) 11 & 12 Geo. 6. c. 33. (b) 9 Edw. 7. c. 48. (c) 1 Edw. 8 & 1 Geo. 6. c. 69. (d) 1 & 2 Eliz. 2. c. 25.

(*b*) in relation to a civil servant, any additional years of service of the nature of additional years of service referred to in paragraph (*a*) of this definition which have been granted in, or have otherwise become reckonable in, his employment as a civil servant;

"the benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(**a**), as amended by the Local Government Superannuation (Benefits) (Scotland) Amendment Regulations, 1955(**b**);

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

"contributory employee" has the same meaning as in the Act of 1937;

"local Act contributor" has the same meaning as in the Act of 1937;

"local government service" means service in employment by virtue of which the person employed is or is deemed to be a contributory employee or local Act contributor;

"the Ministry of Finance" means the Ministry of Finance for Northern Ireland;

"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(**c**), and includes any period immediately following the termination thereof during which the person, with the consent of the Head Officer of the Department in which or of the authority by whom he was employed before undertaking that service, continues in similar service;

"the Superannuation Acts" means the Superannuation Acts, 1834 to 1919, as applied to the Civil Service of Northern Ireland, and the Superannuation Acts (Northern Ireland), 1921 to 1951;

"the transfer value regulations" means the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1954(**d**);

"voluntary contributions" means—

(*a*) in relation to a person who has become, or became, employed as a civil servant after ceasing to be employed in local government service, payments made voluntarily by him for the purpose of securing benefits for his widow, children or other dependants and payments (other than completed payments, that is to say, payments made in respect of a liability which has been wholly discharged) of any of the following categories—

(i) additional contributory payments of the kind referred to in subsections (3) and (4) of section 2 of the Act of 1953;

(ii) any similar payments made under a local Act scheme as a condition of reckoning any period of employment as service or as a period of contribution for the purposes of the scheme or, where the local Act scheme provides for the reckoning of non-contributing service, as contributing service for the purposes of the scheme;

(iii) any payments made for the purpose of increasing the length at which any period of service or of contribution would be reckonable for the purpose of calculating a benefit under a local Act scheme;

(**a**) S.I. 1954/1059 (1954 II, p. 1632).
(**b**) S.I. 1955/1226 (1955 II, p. 1831).
(**c**) 14 & 15 Geo. 6. c. 65.
(**d**) S.I. 1954/1256 (1954 II, p. 1736).

(iv) any payments made in respect of added years;

(*b*) in relation to a person who has become employed in local government service after ceasing to be employed as a civil servant, any payments similar in character to any such payments as aforesaid, for the continuation of which, during the period of his employment, as a civil servant, provision was made by or under any enactment.

(2) References in these rules to the provisions of any enactment, rules or regulations shall be construed, unless the context otherwise requires, as references to those provisions as amended, applied or re-enacted by any subsequent enactment, rules or regulations.

(3) The Interpretation Act, 1889(a), applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

PART II

Transfer from Scottish Local Government Service to the Civil Service of Northern Ireland

Transfer values payable to Ministry of Finance

3.—(1) Where a person either—

(*a*) becomes, or before the date of the coming into operation of these rules became, a civil servant within twelve months after ceasing to be employed in local government service (in this Part of these rules referred to in relation to such a person as his "former employment"), or

(*b*) having been appointed to a post in the permanent civil service of Northern Ireland within twelve months after ceasing to be employed in local government service, becomes, or before the date of the coming into operation of these rules became, employed as a civil servant, but owing to causes which in the opinion of the Ministry of Finance are reasonable does not or did not become so employed until after the expiration of the said period of twelve months, or

(*c*) having become engaged in national service immediately after leaving employment in local government service, becomes, or before the date of the coming into operation of these rules became, a civil servant within six months after the termination of such national service, or

(*d*) having become engaged in national service immediately after leaving employment in local government service, and having been appointed to a post in the permanent civil service of Northern Ireland, becomes, or before the date of the coming into operation of these rules became, employed as a civil servant, but owing to causes which in the opinion of the Ministry of Finance are reasonable does not or did not become so employed until after the expiration of the said period of six months,

then, if he notifies in writing the Department in which he becomes, or became, employed within three months after entering their employment or within six months after the date of the coming into operation of these rules, whichever period last expires, that he desires these rules to apply to him and, if he ceased to hold his former employment before the date of the coming into operation of these rules, the authority maintaining the superannuation fund to which he was a contributor consent, the like transfer

(a) 52 & 53 Vict. c. 63.

value shall be payable to the Ministry of Finance out of the fund to which the person was a contributor by the authority maintaining that fund as would have been payable under the transfer value regulations had the person become a contributory employee, less an amount equal to any sum which the trustees of the fund may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value, and the like particulars of the person's previous pensionable service shall be furnished to the said Ministry and the person as would have been given to the person if instead of becoming a civil servant he had become a contributory employee:

Provided that—

(i) this rule shall not apply to any person unless within three months after becoming a civil servant or within six months after the date of the coming into operation of these rules, whichever period last expires, he furnishes the Department in which he becomes, or became, employed with particulars of any national service in which he has been engaged since he left his former employment and pays to the Ministry of Finance an amount equal to any sum paid to him by way of a return of contributions, other than voluntary contributions;

(ii) this rule shall not apply to any person who became a civil servant before the date of the coming into operation of these rules unless he became a civil servant on or after the first day of April, 1950;

(iii) this rule shall not apply to any person who became entitled on ceasing to hold his former employment to any benefit under the Acts of 1937 to 1953 or the local Act scheme to which he was subject, other than a return of contributions;

(iv) the reference in this rule to a period of twelve months from the date on which a person ceased to be employed shall be construed in relation to a person to whom section 6 of the Act has become applicable as a reference to a period of five years from that date or such longer period as the Ministry of Finance may in any particular case allow;

(v) the transfer value payable in respect of a person who ceased to hold his former employment more than twelve months before the date of the coming into operation of these rules shall be calculated by reference to his age at that date;

(vi) the transfer value payable in respect of a person who had been an established officer or servant within the meaning of the Act of 1909 shall be calculated as if paragraph (*c*) had been omitted from the definition of "service" in paragraph 1 of the First Schedule to the transfer value regulations.

(2) Where a transfer value is payable in respect of a person who before becoming employed in local government service had been subject to the Act of 1909 and the body by whom he was last employed while subject to the Act of 1909 would, if he had become entitled to a superannuation allowance on ceasing to be employed in local government service, have been liable to contribute to that allowance, that body or the appropriate authority in relation to that body shall pay to the authority maintaining the fund out of which the transfer value is payable a sum equal to the transfer value which that body or the appropriate authority aforesaid would have been liable to pay to the Secretary of State under paragraph (4) of regulation 52 of the National Health Service (Scotland) (Superannuation) Regulations, 1950(a), if that regulation had become applicable to the person on the day

(a) S.I. 1950/498 (1950 I, p. 1458).

when he became a civil servant; and where that body or the appropriate authority aforesaid would in those circumstances have had in respect of any such contribution to a superannuation allowance as aforesaid a right of contribution from any other body, that other body or, if that other body has been dissolved or has ceased to exercise functions as such, the appropriate authority in relation to that other body shall pay to the authority maintaining the superannuation fund aforesaid an amount equal to the transfer value which that other body or the appropriate authority aforesaid would have been liable to pay to the Secretary of State under paragraph (5) of the said regulation 52 if that regulation had become applicable to the person when he became a civil servant.

In this paragraph "appropriate authority" in relation to a body has the same meaning as in paragraph (15) of the said regulation 52.

Exercise by local authority of discretionary powers to increase benefits

4.—(1) Where a person becomes, or became, a civil servant after having ceased to be employed in local government service and these rules have become applicable to him, the authority or body by whom he was employed may, within three months after the date on which they are informed by the Department in which he is, or was, employed of his notification that he desires these rules to apply to him, exercise any discretion which, with a view to increasing the benefits payable to him, it would have been open to them to exercise at the time when he left their employment if he had then retired and had been entitled to a retirement pension under regulation 5 of the benefits regulations or (if that regulation was not applicable to him) to any corresponding benefit provided under the superannuation provisions which were applicable to him in his former employment.

(2) A decision in the exercise of any discretion under the last preceding paragraph shall be subject to the limitations and restrictions (if any) and to the right of appeal (if any) to which it would have been subject if the discretion had been exercised on the person's retirement in the circumstances aforesaid.

(3) Where a discretion has been exercised under paragraph (1) of this rule, the service reckonable, immediately before he left his former employment, by the person in whose favour the discretion has been exercised shall be deemed to have been correspondingly increased and the transfer value payable in respect of that person shall be calculated accordingly.

(4) Any increase in service, if attributable to a decision under this rule to increase the benefits payable to the person otherwise than by any notional increase or extension of the service reckonable for the purpose of calculating those benefits, or by treating any specified period of non-contributing service as contributing service, or, under a local Act scheme, by similarly converting service of one category to service of another category, shall be ascertained by converting a higher rate of benefit into years of contributing service or service for the purposes of the relevant local Act scheme in the manner in which fractions of remuneration are converted into years of contributing service under subsection (4) of section 2 of the Act of 1953.

(5) Where the amount of any transfer value payable under the last preceding rule is increased in consequence of the exercise by an authority or body of any power conferred upon them by paragraph (1) of this rule, that authority or body shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable.

PART III

Transfer from the Civil Service of Northern Ireland to Scottish Local Government Service

Reckoning of previous service

5. Subject as hereinafter provided, where a person becomes, or before the date of the coming into operation of these rules became, employed in local government service (in this Part of these rules referred to in relation to such a person as his "new employment") within a period of twelve months after ceasing to be a civil servant, or, if immediately after ceasing to be a civil servant he became engaged in national service, within a period of six months after the termination of that service, and without having been granted a pension under the Superannuation Acts, then, if the authority maintaining the fund to which he becomes, or first became, a contributor receive from the Ministry of Finance a transfer value of an amount equal to the transfer value which would have been payable under the transfer value regulations, if the person instead of having ceased to be a civil servant had ceased to be a contributory employee, the period of his service which for the purposes of the Superannuation Acts was reckonable as service in the capacity of a civil servant shall be reckoned as contributing service for the purposes of the Act of 1937, or as service or as a period of contribution for the purposes of the local Act scheme, as the case may be; and any period of service of which account would have been taken for the purpose of determining whether he 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, shall, to the same extent, be reckonable for the purpose of determining whether any benefit is payable to or in respect of him as a contributory employee or local Act contributor:

Provided that—

(*a*) this rule shall not apply to any person unless within three months after entering his new employment or within six months after the date of the coming into operation of these rules, whichever period last expires, he notifies in writing the authority maintaining the superannuation fund to which he is, or, as the case may be, first became, a contributor that he desires these rules to apply to him and furnishes them with particulars of any national service in which he has been engaged since leaving his former employment;

(*b*) this rule shall not apply to any person who became a contributor to a superannuation fund maintained by a local authority before the date of the coming into operation of these rules unless he ceased to be a civil servant not earlier than the first day of April, 1950;

(*c*) if any part of the service which he would become entitled to reckon as contributing service by virtue of the preceding provisions of this rule is attributable to service which before he became a civil servant was non-contributing service under the Act of 1937 or under a local Act scheme, that service shall be reckonable in his new employment in the manner and to the extent to which it would have been reckonable if in his employment as a civil servant he had been a contributory employee.

Provisions with respect to breaks in service

6. In determining whether for the purposes of the last preceding rule—

(*a*) a person has become employed in local government service within a period of 12 months after ceasing to be a civil servant or within a period of six months after the termination of his national service; or

(*b*) a person has become engaged in national service immediately after ceasing to be a civil servant,

the whole or part of any period which, after ceasing to be a civil servant, the person has spent on a course of study or training approved by the Ministry of Finance shall, if the Ministry of Finance so direct, be disregarded:

Provided that this rule shall not apply to any person unless the authority or body employing him in his new employment are satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of that employment.

Reckoning of national service

7. Where after ceasing to be a civil servant and before entering his new employment a person to whom rule 5 of these rules has become applicable had been engaged in national service, the period of service which he becomes entitled to reckon under the said rule shall be treated as being increased to the extent (if any) to which the said period of national service would have been reckonable as service for the purposes of the Superannuation Acts had the person again become a civil servant on the termination of such national service:

Provided that this rule shall not apply unless the transfer value received from the Ministry of Finance under rule 5 of these rules was calculated so as to include the liability of which the said Ministry was relieved in respect of the said period of national service.

Continuation of payments made with a view to adding to, or enhancing the value of, previous service

8.—(1) Where any person to whom rule 5 of these rules has become applicable was, at the time when he ceased to be employed as a civil servant, in the course of making payments (other than those to which paragraph (2) of this rule applies) by way of—

(*a*) instalments in discharge of a fixed sum; or

(*b*) contributions of a fraction or percentage of emoluments additional to any percentage payable in respect of current service,

as a condition of being entitled to reckon the service in relation to which those payments were being made as a period of reckonable service, for the purposes of the Superannuation Acts, or as a condition of increasing the length at which the said service would be reckonable for the purpose of calculating a benefit under the Superannuation Acts, he shall be entitled, if he repays forthwith to the authority maintaining the superannuation fund to which he is a contributor in his new employment a sum equal to any sum paid to him by way of return of such payments on or after ceasing to be employed as a civil servant, to make payments and, in respect of the service in respect of which the payments were being made, shall enjoy rights and be subject to liabilities, as if in his former employment he had been, instead of a civil servant, a local Act contributor.

(2) Where any person to whom rule 5 of these rules has become applicable was in the course of making payments in respect of added years, he shall be entitled, if he repays forthwith to the authority maintaining the superannuation fund to which he is a contributor in his new employment a sum equal to any sum paid to him by way of return of such payments as aforesaid on or after ceasing to be employed as a civil servant, to pay the outstanding payments in the manner in which they would have been payable if he had remained in his employment as a civil servant and, in respect of the added years in respect of which those payments are made, shall enjoy rights

and be subject to liabilities, as if those years were added years in respect of which payments are being made in his new employment under regulation 12 of the benefits regulations or, if in his new employment he is subject to a local Act scheme, under such provisions corresponding to the said regulation 12 or to regulation 5 of the Local Government Superannuation (Reckoning of Service on Transfer) (Scotland) Regulations, 1954(a), as are contained in that scheme.

PART IV

Miscellaneous Provisions

Contributions not returnable to a person to whom rule 3 has become applicable

9. Notwithstanding anything in the Act of 1937 or any local Act scheme no payment shall be made thereunder by way of a return of contributions, other than voluntary contributions, to any person to whom rule 3 of these rules has become applicable.

Computation of contributions of a person to whom rule 5 has become applicable

10.—(1) Where a person to whom rule 5 of these rules has become applicable—

(*a*) ceases to be in local government service in the circumstances mentioned in subsection (1) of section 10 of the Act of 1937 ; or

(*b*) dies in the circumstances mentioned in subsection (3) of that section ; or

(*c*) ceases (by reason of permanent ill-health or infirmity of mind or body) to be in local government service, or dies, in circumstances in which there is payable to or in respect of him a benefit which falls to be calculated by reference to the amount of his contributions (with or without interest),

he shall be deemed to have made to the appropriate superannuation fund, on becoming a contributor to such fund, contributions in respect of the period of his employment as a civil servant of an aggregate amount equal to three eightieths of the annual salary and emoluments of his office multiplied by the number of completed years of his service as a civil servant.

(2) In this rule " the annual salary and emoluments of his office " means the average annual amount of the pensionable salary and emoluments of his office during the three years ending with the last day of his service as a civil servant, or, where his service during that period is less than three years, the average annual amount of his pensionable salary and emoluments during the actual period of his said service.

Rights of former insured persons to whom rule 5 has become applicable

11. Where any person to whom rule 5 of these rules has become applicable was in his employment as a civil servant an insured person within the meaning of the National Insurance Act (Northern Ireland), 1946(b), then—

(*a*) if he had been excepted from the operation of any provision (hereinafter called " the modification provision ") modifying his benefits under the Superannuation Acts, the provisions of any regulations made by the Secretary of State under subsection (4) of section 69 of the National Insurance Act, 1946(c), and the provisions of any other regulations or of any scheme replacing wholly or in part the provisions of the regulations made under the said subsection (4), shall not apply to him ;

(a) S.I. 1954/1241 (1954 II, p. 1680). (b) 1946 c. 23 (N.I.). (c) 9 & 10 Geo. 6. c. 67.

(*b*) if he had not been so excepted, the provisions of any such regulations or scheme as aforesaid applicable to him in his new employment shall apply to him, as if any service which he becomes entitled to reckon under rule 5 of these rules, being service of which account would have been taken under the modification provision for the purpose of reducing any benefit to which the person might have become entitled under the Superannuation Acts had he continued to be subject thereto, were service rendered on or after the fifth day of July, 1948.

Application of section 30 *of the Act of* 1937

12. The provisions of section 30 of the Act of 1937 shall have effect in relation to a person who becomes a contributory employee or a person who is deemed to be a contributory employee in circumstances in which these rules apply, as if the reference in the said section to regulations made under that Act included a reference to these rules.

Dated this 25th day of June, nineteen hundred and fifty-seven.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.

EXPLANATORY NOTE

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

Section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948, empowers the Secretary of State, and section 15 contains further enabling powers in that behalf, to make rules with respect to the pensions payable to and in respect of persons changing pensionable service under local government superannuation schemes for other pensionable employments specified in the rules, and vice versa.

These rules provide accordingly that—

(*a*) if a pensionable employee under a local government superannuation scheme transfers within a prescribed period (generally twelve months) to established employment in the civil service of Northern Ireland, a transfer value of an appropriate amount shall be payable to the Northern Ireland Ministry of Finance out of the superannuation fund to which he was a contributor; and

(*b*) if a civil servant in Northern Ireland transfers within the prescribed period to pensionable employment under a local government superannuation scheme, and the Northern Ireland Ministry of Finance pay an appropriate transfer value, the transferee is to be entitled to reckon his Northern Ireland service for the purposes of the local government superannuation scheme to which he has become subject.

In the case mentioned at (*a*) above, the Northern Ireland authorities have made the necessary provision for securing that the Scottish pensionable service will be reckonable for pension purposes under the Superannuation Acts applying in Northern Ireland.

The rules are made retrospective in effect to a limited extent, under the express powers of section 2 of the Act of 1948, but, as thereby required, transferees and local authorities affected by the retrospective provisions of the rules are given an opportunity of electing that these provisions shall not apply.