1959 No. 1916 (S. 102)

The Superannuation (Local Government, Social Workers and Health Education Staff) Interchange (Scotland) Rules, 1959

Made - - - -	10*th November*, 1959
Laid before Parliament	19*th November*, 1959
Coming into Operation	20*th November*, 1959

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, Social Workers and Health Education Staff) Interchange (Scotland) Rules, 1959, and shall come into operation on the twentieth day of November, 1959.

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, 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.

"the benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(a);

"the appropriate Committee" means, in relation to social welfare employment, the committee of management for the time being appointed to administer the Social Workers Pension Fund and, in relation to health education employment, the committee of management for the time being appointed to administer the Central Council for Health Education Staff Pension Fund;

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

"health education employment" means, in relation to any person, employment in which he is a member of the Central Council for Health Education Staff Pension Fund;

"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 by virtue of any enactment to be, a contributory employee or local Act contributor;

"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 any period immediately following the termination thereof during which the person, with the consent of the authority or body by whom he was employed before undertaking that service, continues in similar service;

"the Rules of 1949" means the Superannuation (Local Government, Social Workers and Health Education Staff) (Scotland) Interchange Rules, 1949(c);

"social welfare employment", in relation to any person, means employment in which he is a member of the Social Workers Pension Fund;

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

"voluntary contributions" means, in relation to a person who has entered social welfare employment or health education employment 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) made in respect of added years;

"war service" means war service within the meaning of the Local Government Staffs (War Service) Act, 1939(e), but does not include, in the case of a person who before the termination of his war service made a claim under section 10 of the Act of 1937 or any corresponding provision of a local Act scheme for the return of contributions made by him for superannuation purposes, any part of his war service after the date on which the claim was made.

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

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

(a) S.I. 1954/1059 (1954 II, p. 1632).
(b) 14 & 15 Geo. 6. c. 65.
(c) S.I. 1949/1990 (1949 I, p. 3097).
(d) S.I. 1954/1256 (1954 II, p. 1736).
(e) 2 & 3 Geo. 6. c. 94.
(f) 52 & 53 Vict. c. 63.

Definition of "the prescribed time limit"

3.—(1) Subject as hereinafter provided, "the prescribed time limit" means—

(*a*) in rule 4, a period of twelve months after ceasing to be employed in local government service or, in the case of a person who immediately after leaving such employment became engaged in war service or national service, a period of six months after the termination of that service;

(*b*) in rule 7, a period of twelve months after ceasing to be employed in social welfare employment or health education employment or, in the case of a person who immediately after leaving such employment became engaged in war service or national service, a period of six months after the termination of that service:

Provided that the reference in sub-paragraph (*a*) of this paragraph 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 Secretary of State may, in any particular case, allow.

(2) Subject as hereinafter provided, in the case of a person to whom rule 4 or rule 7 of these rules applies—

(*a*) in reckoning the said period of twelve months or, as the case may be, the said period of six months mentioned in sub-paragraph (*a*) or (*b*) of the last preceding paragraph no account shall be taken of any period spent by the person on a course of study or training which he entered after leaving his former employment;

(*b*) if the person left his former employment in order to enter a course of study or training and on completion of that course became engaged in war service or national service, he shall be deemed for the purposes of the last preceding paragraph to have left that employment at the time when he completed the said course of study or training.

(3) The provisions of the last foregoing paragraph shall not apply to any person unless—

(i) before leaving his former employment (or, if between leaving that employment and entering the said course of study or training he was engaged in war service or national service, before the end of that service) he gave notice in writing to the authority by whom he was employed of his intention to enter the said course of study or training; and

(ii) his new employer is satisfied that by reason of having undertaken the said course of study or training the person is better fitted for the duties of his new employment.

PART II

Transfer from Local Government Service to Social Welfare or Health Education Employment

Transfer values payable by local authorities

4.—(1) Subject as hereinafter provided, where a person becomes, or before the date of the coming into operation of these rules became, employed in social welfare employment or in health education employment within the prescribed time limit 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") and without having become entitled 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, then—

(i) the like transfer value shall be payable to the appropriate Committee out of the superannuation fund to which the person was a contributor in his former employment 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

(ii) the like particulars relating to the person's previous pensionable service shall be furnished to the person as would have been given to him if instead of entering social welfare employment or health education employment he had become a contributory employee.

(2) The foregoing paragraph shall not apply to any person unless within three months after entering social welfare employment or health education employment or within six months after the date of the coming into operation of these rules, whichever period last expires, he—

(*a*) notifies the appropriate Committee in writing that he desires these rules to apply to him;

(*b*) furnishes the appropriate Committee with particulars in writing of any war service or national service in which he has been engaged since he left his former employment;

(*c*) pays to the appropriate Committee an amount equal to any sum paid to him by way of return of contributions, other than voluntary contributions:

Provided that the said Committee may in any particular case allow a longer period than aforesaid for payment under this sub-paragraph.

(3) Paragraph (1) of this rule shall not apply to any person who—

(i) ceased to hold his former employment before the date of the coming into operation of these rules unless the authority maintaining the fund to which he was a contributor consent;

(ii) entered social welfare employment or health education employment more than three months before the date of the coming into operation of these rules unless the Rules of 1949 applied to him.

(4) 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.

(5) The transfer value payable in respect of a person to whom paragraph (2) of rule 3 of these rules applies, who since leaving his former employment and before entering his new employment has undergone a course of study or training, shall be calculated by reference to his age at the date when he became employed in social welfare employment or health education employment.

(6) 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.

(7) 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, if that body has been dissolved or has ceased to exercise functions as such, 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 date when he entered social welfare employment or health education employment; and where that body would 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 a sum equal to the transfer value which that other body or the appropriate authority in relation to that other body 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 entered social welfare employment or health education employment.

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

5.—(1) Where a person becomes, or before the date of coming into operation of these rules became, employed in social welfare employment or health education employment 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 appropriate Committee of his notification that he desires these rules to apply to him, exercise in relation to him 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 foregoing 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.

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

(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 the service in respect of which the higher rate of benefit is payable into contributing service or service for the purposes of the relevant local Act scheme in the manner in which non-contributing service is converted into 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 foregoing 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.

Rules of 1949 *to cease to apply*

6.—(1) In the case of any person to whom the Rules of 1949 apply, those rules shall cease to apply to him when, by his election and obtaining any necessary consent, these rules become applicable to him.

(2) The Rules of 1949 shall not apply to any person who enters social welfare employment or health education employment after the date of the coming into operation of these rules.

PART III

Transfer from Social Welfare or Health Education Employment to Local Government Service

Reckoning of previous service

7.—(1) 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 within the prescribed time limit after ceasing to be employed in social welfare employment or in health education employment and without having been granted a pension out of the Social Workers Pension Fund or the Central Council for Health Education Staff Pension Fund, then, if the authority maintaining the superannuation fund to which he becomes, or first became, a contributor receive from the Social Workers Pension Fund or the Central Council for Health Education Staff Pension Fund, as the case may be, an amount equal to the sum payable in respect of that person under the rules governing the Fund upon the person entering local government service, he shall be entitled to reckon as contributing service or service for the purposes of the local Act scheme, as the case may be, such number of completed years and months as having regard to his age and remuneration at the date on which he becomes or became employed in local government service as aforesaid would have produced a transfer value of the said amount under the transfer value regulations had he ceased to be a contributory employee at the said date:

Provided that this rule shall not apply to:—

(i) 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 a contributor that he desires these rules to apply to him and furnishes them with particulars of his previous superannuable employment;

(ii) any person who entered his new employment before the twenty-ninth day of July, 1949; and

(iii) any person who before the date of the coming into operation of these rules became employed in local government service within a period of twelve months after ceasing to be employed in social welfare employment or in health education employment.

(2) A person to whom this rule applies shall not be entitled under subsection (2) of section 12 of the Act of 1937 or any corresponding provision of a local Act scheme to reckon any local government service prior to the date on which he became employed in social welfare employment or health education employment, being local government service in respect of which a transfer value has been paid under rule 4 of these rules.

PART IV

Miscellaneous Provisions

Contributions not returnable to a person to whom rule 4 has become applicable

8. 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 4 of these rules has become applicable.

Computation of contributions of a person to whom rule 7 has become applicable

9.—(1) Where a person to whom rule 7 of these rules has become applicable, or to whom rule 9 of the Rules of 1949 had become applicable, ceases to be employed in local government service, or dies, in circumstances in which under the relevant superannuation provision there is payable to or in respect of him an amount by way of return of contributions (with or without interest) or a benefit which falls to be calculated by reference to any such amount, then, for the purpose of the relevant superannuation provision, the amount of his contributions shall be taken to include, in respect of service which, by virtue of these rules, has become reckonable as service for the purposes of the Acts of 1937 to 1953 or the relevant local Act scheme, an amount equal to the amount which would have been payable by way of return of contributions under the pension scheme applicable to him in his former employment, if, on his ceasing to hold that employment, he had been entitled to receive an amount by way of return of contributions without interest.

(2) Where under the relevant superannuation provision the amount payable by way of return of contributions or by way of benefit is a sum equal to, or which falls to be calculated by reference to, the amount of his contributions with compound interest thereon, compound interest shall also be payable in respect of the amount by which those contributions are increased under the last foregoing paragraph, calculated—

(*a*) as respects the period ending immediately before the day on which he became employed in local government service, at the rate at which it would have been calculated under the pension scheme applicable to him in his former employment if on leaving that employment he had been entitled to a return of contributions together with compound interest thereon; and

(*b*) as respects the period beginning with the date on which he became employed in local government service, in accordance with the provisions of section 10 of the Act of 1937 or, as the case may be, the corresponding provisions of the relevant local Act scheme.

(3) Notwithstanding anything in the previous provisions of this rule, the sum by which contributions payable under the relevant superannuation provision are increased under paragraph (1) or (2) of this rule shall not include—

(*a*) any amount in respect of payments made voluntarily for the purpose of securing benefits for a widow, children or other dependants; or

(*b*) any sum in respect of contributions which, on or after the person ceasing to be employed in social welfare employment or in health education employment were returned to and retained by him.

10. Where a person to whom rule 7 of these rules has applied ceases to be employed in local government service within three years after becoming so employed and does so in circumstances in which he is entitled to a benefit (other than a return of contributions) under the Acts of 1937 to 1953 or under the local Act scheme to which he was subject, his average remuneration for the purpose of calculating any such benefit shall be deemed to be the annual average of his remuneration for the period during which he was last employed in local government service.

Revocation

11. Rules 9 and 10 of the Rules of 1949 (which relate to persons transferring from social welfare employment or health education employment to local government service) are hereby revoked:

Provided that without prejudice to the general application of section 38 of the Interpretation Act, 1889 (which relates to the effect of repeals) in so far as any agreement, order, requirement, designation, application, request or representation made, or any resolution passed, or any notice, direction, consent, sanction, approval, exemption or certificate given under any rule revoked by these rules or any conditions imposed, or any proceedings instituted, or any other thing done, under any such rule, could have been made, passed, given, imposed, instituted or done under or by a corresponding provision of these rules, it shall not be invalidated by these rules, but shall have effect as if it had been made, passed, given, imposed, instituted or done under or by that provision.

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 by virtue of any enactment 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 tenth day of November, 1959.

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

St. Andrew's House,
Edinburgh, 1.

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EXPLANATORY NOTE

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

These rules provide for the aggregation of service and for a single superannuation award in cases where persons transfer within the prescribed period (generally 12 months) from pensionable employment with a local authority in Scotland to employment entailing membership of the Social Workers Pension Fund or the Central Council for Health Education Staff Pension Fund, or vice versa. Where such a transfer is made, the person is enabled, subject to the payment of an appropriate transfer value, to reckon previous service for pension under the superannuation system to which he transfers.

The rules supersede the Superannuation (Local Government, Social Workers and Health Education Staff) (Scotland) Interchange Rules, 1949. Persons who had, on transferring from local government service to social welfare employment or health education employment, availed themselves of the provisions of those rules for the preservation of pension rights, are enabled to take advantage of the more comprehensive provisions of these rules. Persons who had, on transferring from social welfare employment or health education employment to local government service, been unable to avail themselves of the provisions of the earlier rules, because an intervening period of study or training had extended beyond the permitted interval of twelve months, are also enabled to take advantage of these rules. The rules are given this limited retrospective operation under the authority of, and subject to the safeguards required by, section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948.

1959 No. 1922

The Superannuation (British Council and Civil Service) Transfer Rules, 1959

Made - - - -	16*th November*, 1959
Laid before Parliament	19*th November*, 1959
Coming into Operation	20*th November*, 1959

The Lords Commissioners of Her Majesty's Treasury, in exercise of the powers conferred upon them by Section 2 of the Superannuation Act, 1957(a), and of all other powers enabling them in that behalf, hereby make the following Rules:—

1.—(1) Where a person was, not earlier than the first day of May, 1946, or not later than the twenty seventh day of January, 1947, taken into the civil service of the State as an officer of the Central Office of Information after having been employed in the British Council, and his employment in that Council was, in the opinion of the Treasury, of the same nature and for the same purpose as his employment in the service of the State, his service in employment in that Council before the date on which he was

(a) 5 & 6 Eliz. 2. c. 37.