STATUTORY INSTRUMENTS

1967 No. 1885 (S. 172)

PENSIONS

The Superannuation (Teachers and Members of the House of Commons) Interchange (Scotland) Rules 1967

Made - - -	*15th December* 1967
Laid before Parliament	*29th December* 1967
Coming into Operation	*1st January* 1968

In exercise of the powers conferred on me by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948(a), as applied by section 13(6) of the Ministerial Salaries and Members' Pensions Act 1965(b) and as amended by the Superannuation (Miscellaneous Provisions) Act 1967(c), and of all other powers enabling me in that behalf, and with the consent of the Treasury, I hereby make the following rules—

PART I

GENERAL

Citation and Commencement

1. These rules may be cited as the Superannuation (Teachers and Members of the House of Commons) Interchange (Scotland) Rules 1967 and shall come into operation on 1st January 1968.

Interpretation

2.—(1) In these rules, unless the context otherwise requires—

"the Act of 1962" means the Education (Scotland) Act 1962(d);

"contributing service" and "contributory employee" have the same respective meanings as in the Local Government Superannuation (Scotland) Act 1937(e);

"employing authority" has the same meaning as is assigned to it by section 34 of the Local Government Superannuation (Scotland) Act 1937;

"Member" means Member of the House of Commons;

"Members' Contributory Pension Fund" means the fund constituted under section 4(2) of the Members' Pensions Act;

"Members' Pensions Act" means the Ministerial Salaries and Members' Pensions Act 1965;

"operative date" means the date of the coming into operation of these rules;

"Parliamentary service" means service which is reckonable service within the meaning of section 7(5) of the Members' Pensions Act;

(a) 1948 c. 33. (b) 1965 c. 11. (c) 1967 c. 28. (d) 1962 c. 47. (e) 1937 c. 69.

"pension" has the meaning assigned to it by the Superannuation (Miscellaneous Provisions) Act 1948;

"the Teachers Regulations" means the Teachers (Superannuation) (Scotland) Regulations 1957(a) as amended (b);

"teaching service" has the meaning assigned to the expression "first class service" by regulation 5 of the Teachers Regulations and includes periods which are deemed to be, and recorded as, first class service under the provisions of regulation 9 of the said regulations (which relates to periods of experience of value to teachers) or under the provisions of regulation 12 of the said regulations (which relates to breaks in service) but does not include any period of teaching service which has been recorded as third class service in consequence of the return of contributions to the teacher unless such period of third class service is again recorded as first class service in consequence of the repayment of the said contributions by the teacher in accordance with the provisions of regulation 50(4) of the said regulations;

"second class service" and "third class service" have the same respective meanings as are assigned to these expressions by regulations 6 and 7 of the Teachers Regulations;

"the Transfer Value Regulations" means the Local Government Superannuation (Transfer Value) (Scotland) Regulations 1954(c);

"the Trustees" means the Trustees of the Members' Contributory Pension Fund appointed under section 4(3) of the Members' Pensions Act.

(2) Reference 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, modified, affected or re-enacted by any subsequent enactment, rules or regulations.

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

PART II—TRANSFER FROM TEACHING SERVICE TO PARLIAMENTARY SERVICE

Application

3. This Part of these rules shall apply to a person who—

(*a*) within 12 months after ceasing to be employed in teaching service, or within such longer period after so ceasing as the Secretary of State and the Trustees may in any particular case approve, has become or becomes a Member, if either—

(i) he was first elected a Member not earlier than 15th October 1964 and before the operative date and, being a Member on the operative date, the Secretary of State and the Trustees consent to this Part of these rules applying to him; or

(ii) he is first elected a Member on or after the operative date;

(*b*) has not become entitled to any pension (other than the repayment of contributions) under the Teachers Regulations; and

(*c*) within 3 months after becoming a Member or within 6 months after the operative date, whichever period shall last expire, or within such longer period as the Secretary of State and the Trustees may in any particular case approve—

(i) gives notice in writing to the Trustees that he desires this Part of these rules to apply to him; and

(a) S.I. 1957/356 (1957 I, p. 733).
(b) S.I. 1958/1595, 1963/2111, 1965/1166, 1966/1229 (1958 I, p. 1077; 1963 III, p. 4685; 1965 II, p. 3284; 1966 III, p. 3295).
(c) S.I. 1954/1256 (1954 II, p. 1736). (d) 1889 c. 63.

(ii) repays to the Secretary of State an amount equal to any sum paid to him after he last ceased to be employed in teaching service by way of repayment of contributions, together with an amount equal to any sum deducted from the sum so paid to him in respect of income tax and compound interest thereon and on any sum deducted therefrom in respect of income tax calculated at the rate of 3½ per cent. per annum with yearly rests from the date of payment to him to the date of repayment by him.

Transfer Value

4.—(1) In respect of a person to whom this Part of these rules applies the Secretary of State shall, out of moneys provided by Parliament, pay to the Trustees a transfer value of an amount calculated in accordance with the following provisions of this rule.

(2) Subject as hereafter in this rule provided, the transfer value shall be an amount equal to the transfer value which would have been payable under the Transfer Value Regulations if the person, at the date when he ceased to be employed in teaching service, had ceased to be a contributory employee under one employing authority and had become such an employee under another employing authority and had been entitled to reckon his teaching service as contributing service.

(3) For the purposes of paragraph (2) of this rule, teaching service which is reckoned as contributing service shall be deemed to have been affected or modified in accordance with regulations applicable to contributing service made under section 110 of the National Insurance Act 1965(**a**), or under any provision corresponding thereto contained in an enactment repealed by that Act, in like manner and to the like extent, as nearly as may be, as it was affected or modified by other such regulations.

(4) The amount of the transfer value shall be calculated by reference to the person's age—

(*a*) on the operative date, in the case of a person who is a Member on that date and who ceased to be employed in teaching service more than 12 months before that date; or

(*b*) on the date on which he became a Member, in the case of any other person who ceased to be employed in teaching service more than 12 months before becoming a Member.

(5) The transfer value shall be reduced by an amount equal to any sum which the Secretary of State is liable to pay by way of income tax by reason of its payment.

(6) In calculating the amount of the transfer value there shall be excluded any period of war service within the meaning of the Education (Scotland) (War Service Superannuation) Act 1939(**b**) as amended by section 37 of the Teachers (Superannuation) Act 1956(**c**) and of national service within the meaning of the Teachers' Pensions (National Service) (Scotland) Rules 1952(**d**) in respect of which the contributions remain unpaid at the time the transfer value is paid.

Benefits under Teachers Regulations

5. Subject as provided in Part III of these rules, no payment of any pension shall be made under the Teachers Regulations to any person or his personal representatives in respect of any service which is taken into account in calculating the amount of the transfer value paid by the Secretary of State under rule 4 of these rules.

(**a**) 1965 c. 51. (**b**) 1939 c. 96. (**c**) 1956 c. 53. (**d**) S.I. 1952/518 (1952 I, p. 928). 2m

PART III

TRANSFER FROM PARLIAMENTARY SERVICE TO TEACHING SERVICE

Application

6. This Part of these rules shall apply to a person who—

(*a*) within 12 months of ceasing to be a Member, or within such longer period of so ceasing as the Trustees and the Secretary of State may in any particular case approve, has become or becomes employed in teaching service, if either—

(i) he ceased to be a Member after 15th October 1964 and before the operative date and, being employed in teaching service on the operative date, the Trustees and the Secretary of State consent to this Part of these rules applying to him; or

(ii) he ceases to be a Member on or after the operative date;

(*b*) has not become entitled to a pension under section 7 of the Members' Pensions Act;

(*c*) within 3 months after becoming employed in teaching service or within 6 months after the operative date, whichever period shall last expire, or within such longer period as the Trustees and the Secretary of State may in any particular case approve—

(i) gives notice in writing to the Secretary of State that he desires this Part of these rules to apply to him; and

(ii) furnishes the Secretary of State with particulars of his Parliamentary service; and

(*d*) in respect of whom the Trustees pay to the Secretary of State under section 13(1) of the Members' Pensions Act a sum representing the value of his accrued pension rights in the Members' Contributory Pension Fund reduced by an amount equal to any sum which the Trustees are liable to pay by way of income tax by reason of the payment.

Reckoning of Parliamentary Service

7.—(1) In relation to a person to whom this Part of these rules applies there shall be reckoned as teaching service such period as is equal to the period of contributing service which would, on the basis of his age and rate of salary on the date of becoming employed in teaching service, have resulted in the payment under the Transfer Value Regulations of a transfer value equal to the sum paid in respect of him by the Trustees to the Secretary of State if on that date he had ceased to be a contributory employee under one employing authority and had become such an employee under another employing authority.

(2) The amount, if any, by which a person's Parliamentary service exceeds the period which is reckoned as teaching service under this rule shall be recorded as second class service for the purposes of the Teachers Regulations.

Pensionable Salary

8. Any period which is reckoned as teaching service under rule 7 of these rules shall not be reckoned for the purpose of calculating the pensionable salary of any person under section 110(*h*) of the Act of 1962.

Commencement of Employment

9. For the purposes of regulation 39(3) of the Teachers Regulations the date on which a person to whom this Part of these rules applies became a Member shall be deemed to be a date on which he became employed in teaching service.

Repayment of Contributions

10. Where a person to whom this Part of these rules applies ceases to be employed in teaching service or dies and any sum is payable to or in respect of him by way of repayment of his contributions there shall be included in that sum—

(*a*) a sum equal to that which would have been payable in respect of him by way of refund of contributions and interest thereon under section 11(1) of the Members' Pensions Act if he had died in the circumstances described in paragraph (a) of that sub-section on the day on which he ceased to be a Member; and

(*b*) compound interest on the sum last specified calculated at the rate of 3 per cent. per annum with yearly rests from the date on which the person became employed in teaching service to the date at which the repayment of contributions payable to him is to be computed.

Payment into Exchequer

11. All sums received by the Secretary of State in respect of a person to whom this Part of these rules applies shall be paid into the Exchequer.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
16th November 1967.

We consent.

E. Alan Fitch,
Harry Gourlay,
Two of the Lords Commissioners of Her Majesty's Treasury.

15th December 1967.

EXPLANATORY NOTE

(This Note is not part of the rules.)

These rules provide for the preservation of the superannuation rights of persons who transfer from service which is pensionable under the Teachers (Superannuation) (Scotland) Regulations to membership of the House of Commons, or vice versa. Where such a transfer takes place and an appropriate transfer value is paid, the person is credited with previous service for pension under the superannuation scheme to which he becomes subject.

Under the powers conferred by section 2(5) of the Superannuation (Miscellaneous Provisions) Act 1948, the rules apply to transfers before their coming into operation. But a person who becomes a Member must have been first elected not earlier than 15th October 1964; and a person who transfers to teaching must have ceased to be a Member since that date.

Where a person's contributions in respect of teaching service have been repaid to him, they must be returned to the Secretary of State before a transfer value is paid to the Members' Pension Fund and, under powers conferred by section 11(6) of the Superannuation (Miscellaneous Provisions) Act 1967, the rules provide for the charging of interest on the sum repaid.