STATUTORY INSTRUMENTS

1969 No. 1352 (S.106)

PENSIONS

The Superannuation (Local Government and Membership of the House of Commons) Interchange (Scotland) Rules 1969

Made - - -	17*th September* 1969
Laid before Parliament	30*th September* 1969
Coming into Operation	1*st October* 1969

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In exercise of the powers conferred on me by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948(a), as extended by section 13(6) of the Ministerial Salaries and Members' Pensions Act 1965(b) and amended by section 11(6) of the Superannuation (Miscellaneous Provisions) Act 1967(c), and of all other powers enabling me in that behalf, I hereby make the following rules :—

PART I

PRELIMINARY

Title and commencement

1. These rules may be cited as the Superannuation (Local Government and Membership of the House of Commons) Interchange (Scotland) Rules 1969, and shall come into operation on 1st October 1969.

Interpretation

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

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

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

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

"added years", in relation to a person in local government employment, means any additional years of service reckonable by him under regulation 12 of the benefits regulations or that regulation as applied by or under any enactment, and includes any additional years of service which, having been granted thereunder, have subsequently become reckonable under or by virtue of any other enactment ;

"benefit" means any superannuation benefit payable to or in respect of any person ;

"the benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations 1954(f) :

(a) 1948 c. 33.
(b) 1965 c. 11.
(c) 1967 c. 28.
(d) 1937 c. 69.
(e) 1953 c. 25.
(f) S.I. 1954/1059 (1954 II, p. 1632).

"contributing service" and "contributory employee" have the same meanings as in the Act of 1937;

"enactment" includes any instrument made under any enactment;

"fund authority" means a local authority maintaining a superannuation fund to which a person either became a contributor after ceasing to be a Member of the House of Commons or, as the case may be, was last a contributor before he became such a Member;

"interchange rules" means rules made under section 2 of the Act of 1948;

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

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

"national service", in relation to any person, means service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(a), and any similar service immediately following relevant service, entered into with the consent of the authority or person by whom he was employed before undertaking that service or, in the case of a person who holds an appointment to an office and is not employed under a contract of employment, with the consent of the authority by whom he was appointed;

"non-contributing service" has the same meaning as in the Act of 1937:

"prescribed period" has the meaning assigned to it by rule 3;

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

"the Trustees" means the Trustees of the Members' Contributory Pension Fund established under Part II of the Ministerial Salaries and Members' Pensions Act 1965;

"voluntary contributions", means payments made voluntarily by a person while in local government employment or in overseas employment within the meaning of the Superannuation (Local Government and Overseas Employment) Interchange (Scotland) Rules 1958(c) for the purpose of securing benefits for his widow, children or other dependants and payments (other than 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 section 2(3) and (4) 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;

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

(a) 1951 c. 65.
(b) S.I. 1954/1256 (1954 II, p. 1736).
(c) S.I. 1958/1402 (1958 II, p. 1857).

(2) Any references in these rules to a person as a contributory employee, or to contributing service, or to the Act of 1937, the Act of 1953, the benefits regulations, or any provision in any of those enactments in their application to that person shall be deemed to include references to a person as a local Act contributor within the meaning of the Act of 1937 and to a person entitled to participate in the benefits of a superannuation fund maintained under a local Act scheme, or to service for the purposes of a local Act scheme, or to any corresponding local Act or scheme or provision therein in their application to that person.

(3) References in these rules to a numbered rule shall, unless the reference is to a rule of a specified enactment, be construed as references to the rule bearing that number in these rules.

(4) Unless the context otherwise requires, references in these rules to the provisions of any enactment shall be construed as references to those provisions as amended, extended, modified, applied or re-enacted by any subsequent enactment.

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

Meaning of "prescribed period"

3.—(1) Subject to the provisions of these rules, the expression "prescribed period" in rules 4 and 8 means a period of 12 months after the date on which a person left local government employment or, as the case may be, ceased to be a Member of the House of Commons, and in the case of a person who immediately after leaving local government employment became engaged in national service, a period of 6 months after the termination of that service.

(2) The reference in the preceding paragraph to a period of 12 months shall be construed in relation to a person to whom section 6 of the Act of 1948 applies (which makes special provision as to local government superannuation during periods of emergency) as a reference to a period of 5 years or such longer period as the Secretary of State may in any particular case allow.

PART II

TRANSFER FROM LOCAL GOVERNMENT EMPLOYMENT TO MEMBERSHIP OF THE HOUSE OF COMMONS

Persons to whom Part II applies

4.—(1) Subject to the provisions of these rules and subject to the conditions specified in rule 5 being satisfied, this Part of these rules shall apply—

(*a*) to a person who on or after the commencement of these rules becomes a Member of the House of Commons within the prescribed period, having left local government employment not earlier than 4th February 1948, and

(*b*) if the fund authority consent, to a person who before the commencement of these rules became a Member of the House of Commons within the prescribed period, having left local government employment not earlier than 4th February 1948 and having been elected such a Member on or after 15th October 1964.

(a) 1889 c. 63.

(2) This Part of these rules shall not apply to any person—

(*a*) who has become entitled to and received payment of any benefit (other than a return of contributions) in respect of his local government employment; or

(*b*) in respect of whom a transfer value has been paid by the fund authority since he left his local government employment.

Conditions for application of Part II

5. The conditions referred to in rule 4 are that the person shall within 3 months after becoming a Member of the House of Commons or, if he became a Member before the commencement of these rules, within 6 months of their commencement—

(*a*) notify the Trustees in writing that he desires these rules to apply to him;

(*b*) furnish the Trustees with particulars in writing of any national service in which he has been engaged since leaving local government employment; and

(*c*) pay to the fund authority an amount equal to any sum paid to him by way of return of contributions (other than voluntary contributions) on or after leaving local government employment, together with any further sum by way of interest required under rule 17.

Payment of transfer value

6.—(1) The fund authority shall, when this Part of these rules becomes applicable to a person—

(*a*) pay to the Trustees, subject to the provisions of these rules, the same transfer value as would have been payable under the transfer value regulations if that person had become a contributory employee under another local authority in the circumstances described in section 24 of the Act of 1937, less an amount equal to any sum which the fund authority may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value; and

(*b*) furnish the Trustees and the person with the same particulars as to previous pensionable service as would have been furnished to the person if instead of becoming a Member of the House of Commons he had become a contributory employee under another local authority.

(2) The transfer value payable in respect of a person who left local government employment before 1st October 1968 and who became a Member of the House of Commons before 1st October 1969 shall be calculated by reference to his age at 1st October 1969.

(3) The transfer value payable in respect of a person who becomes a Member of the House of Commons on or after 1st October 1969 and more than 12 months after leaving local government employment shall be calculated by reference to his age on becoming a Member of the House of Commons.

(4) The transfer value payable in respect of a person who had been an established officer or servant within the meaning of the Asylums Officers' Superannuation Act 1909(**a**) (in this rule called "the Act of 1909") shall be calculated as if paragraph (*c*) had been omitted from the definition of "service" in paragraph 1 of Schedule 1 to the transfer value regulations.

(**a**) 1909 c. 48.

(5) Where—

(*a*) a transfer value is payable by a fund authority in respect of a person who before entering local government employment had been subject to the Act of 1909 and

(*b*) the body by whom he was last employed while subject to that Act (in this rule called "the hospital body") would, if he had become entitled to a superannuation allowance on leaving local government employment, have been liable to contribute to that allowance,

the hospital body shall pay to the fund authority a sum equal to the transfer value which they would have been liable to pay to the Secretary of State under regulation 52(4) of the National Health Service (Scotland) (Superannuation) Regulations 1950(**a**) if that regulation had become applicable to the person when he became a Member of the House of Commons.

(6) Where the hospital body would have had in respect of any such contribution as aforesaid a right of contribution from any other body, that other body shall pay to the fund authority a sum equal to the transfer value which they 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 Member of the House of Commons.

(7) Where any body referred to in paragraph (5) or (6) hereof has been dissolved or has ceased to exercise functions as such, references to that body shall be construed as references to the appropriate authority as defined in paragraph (15) of the said regulation 52.

(8) Notwithstanding anything in the Act of 1937, when this Part of these rules becomes applicable to a person, he shall cease to be entitled to any payment out of the superannuation fund administered by the fund authority other than a payment by way of return of voluntary contributions.

Exercise by local authority of discretionary powers to increase benefits

7.—(1) Where a person becomes, or before the commencement of these rules became, a Member of the House of Commons after leaving local government employment and these rules have become applicable to him, the authority or body by whom he was employed may, within 6 months after the date on which they are informed by the Trustees 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, they could have exercised 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 that employment.

(2) A decision in the exercise of any discretion under this rule 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 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 him 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 benefit otherwise than by any notional increase or extension of the service reckonable for the purpose of calculating benefit, 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 in the manner in which non-contributing service is converted into contributing service under section 2(4) of the Act of 1953.

(5) Where the amount of any transfer value payable under rule 6 is increased in consequence of the exercise by an authority or body of any power conferred upon them by 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 MEMBERSHIP OF THE HOUSE OF COMMONS TO LOCAL GOVERNMENT EMPLOYMENT

Persons to whom Part III applies

8. Subject to the provisions of these rules and subject to the conditions specified in rule 9 being satisfied, this Part of these rules shall apply—

(*a*) to a person who on or after the commencement of these rules enters local government employment within the prescribed period, having ceased to be a Member of the House of Commons after 15th October 1964, and

(*b*) if the Trustees consent, to a person who before the commencement of these rules entered local government employment within the prescribed period, having ceased to be a Member of the House of Commons after 15th October 1964.

Conditions for application of Part III

9. The conditions referred to in rule 8 are that—

(*a*) the person shall before or within 3 months after entering local government employment or, if he entered that employment before the commencement of these rules, within 6 months after their commencement notify the fund authority in writing that he desires these rules to apply to him; and

(*b*) the fund authority shall receive from the Trustees sums certified or calculated under section 13(1) of the Ministerial Salaries and Members' Pensions Act 1965 as representing the value of the person's accrued pension rights in the Members' Contributory Pension Fund, less any sum which the Trustees become liable to pay by way of income tax.

Reckoning of service

10.—(1) Subject to the provisions of this rule, a person to whom this Part of these rules applies shall be entitled to reckon as contributing service such number of completed years and months as having regard to his age and

remuneration at the date when he entered local government employment would have produced a transfer value of the amount received under rule 9(*b*) had he left local government employment in the circumstances described in section 24 of the Act of 1937 at that date.

(2) The reference in the preceding paragraph to a transfer value shall be construed as a reference to a transfer value which is not subject to reduction under regulation 6 of the transfer value regulations or under any regulations made or having effect as if made under section 110 of the National Insurance Act 1965(**a**).

(3) A person to whom this Part of these rules applies shall not be entitled under section 12(2) of the Act of 1937 to reckon as non-contributing service any service as referred to therein before the date he became a Member of the House of Commons if—

(*a*) a transfer value in respect of that service has been paid under rule 6, or

(*b*) a transfer value in respect of that service has been paid under the corresponding provision of any other interchange rules, or

(*c*) a transfer of assets in respect of his accrued pension rights has been made out of a local authority's superannuation fund under any enactment.

Computation of contributions

11.—(1) Where any enactment relating to local government superannuation refers, in connection with assessing a return of contributions or a benefit, to the amount of the contributions paid by a person, the amount of the contributions paid by a person to whom this Part of these rules applies shall be deemed to be increased, in accordance with the provisions of this rule, to take account of earlier periods of service which became reckonable under rule 10.

(2) Subject to the provisions of this rule, the amount of the increase shall be the amount which would have been payable to him if, on ceasing to be a Member of the House of Commons, he had been entitled to a return of contributions without interest.

(3) Where an amount described in paragraph (1) of this rule is the amount of a person's contributions with interest thereon, interest shall also be payable on the amount by which those contributions are increased under paragraph (2), calculated—

(*a*) as respects the period ending immediately before he entered local government employment, at the rate at which it would have been calculated if after ceasing to be a Member of the House of Commons he had been entitled to a return of contributions with interest; and

(*b*) as respects the period beginning on his entry into local government employment, in the manner described in section 10(1) of the Act of 1937.

Calculation of "average remuneration" for periods of less than three years

12. Where a person to whom this Part of these rules applies dies or leaves local government employment within 3 years after entering such employment, and in such circumstances that a benefit (other than a return of contributions) is payable, his average remuneration for the purposes of calculating any such benefit shall be deemed to be the annual average of his remuneration during such period of employment.

(**a**) 1965 c. 51.

Modification of benefits and obligations in relation to National Insurance

13.—(1) In this rule "person retaining unmodified status" means a person whose contributions and pension are, by virtue of regulation 9, 9A or 10 of the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations 1947(**a**) or of interchange rules, not subject to reduction to take into account his entitlement to a retirement pension referred to in section 30 of the National Insurance Act 1965.

(2) Where a person to whom this Part of these rules applies was before becoming a Member of the House of Commons a person retaining unmodified status in local government employment, and after he became a Member of the House of Commons the Trustees received in respect of preceding local government employment a transfer value which had not been reduced pursuant to regulation 6 of the transfer value regulations, he shall re-enter local government employment as a person retaining unmodified status.

Application of section 11 *of the Act of* 1953

14. The provisions of section 11 of the Act of 1953 (which enables persons who would otherwise be debarred from becoming contributory employees on grounds of age to reckon, in relation to local government employment, previous service reckonable under a pension scheme) shall apply in relation to a person who before the commencement of these rules entered local government employment after ceasing to be a Member of the House of Commons ; and the references in subsection (3) of that section to the passing of the Act shall be construed as including references to the commencement of these rules.

Right of appeal

15. The provisions of section 30 of the Act of 1937 (which provides for decision of questions and appeals to the Secretary of State) shall have effect in relation to a person who enters local government employment in circumstances in which these rules apply as if the reference in that section to regulations made under that Act included a reference to these rules :

Provided that this rule shall not apply in relation to a person who is a local Act contributor.

PART IV
MISCELLANEOUS

Extension of time

16.—(1) A fund authority and the Trustees may at any time, on the application of a person who desires these rules to apply to him, agree to extend any of the following periods, namely—

(*a*) the periods of 6 and of 12 months referred to in rule 3(1) ;

(*b*) the periods of 3 and of 6 months referred to in rules 5 and 9 within which a person must notify in writing that he desires these rules to apply to him ;

(*c*) the periods of 3 and of 6 months during which a person must pay to the fund authority any sum described in rule 5(*c*).

(**a**) S.R. & O. 1947/1697 (Rev. XVI, p. 286 : 1947 I, p. 1509).

(2) The Trustees may, in respect of a person required to furnish them with particulars in writing of national service, at any time extend, on the application of that person, the period of 3 or of 6 months referred to in rule 5(*b*) within which he must take such action.

Interest on returned contributions

17.—(1) Where a period longer than 12 months is allowed, pursuant to rule 16(1)(*a*), in respect of any person who has left local government employment, the fund authority may require that person to pay compound interest on any sum paid to him by way of return of contributions (other than voluntary contributions) on or after leaving that employment at a rate of 3% per annum with half-yearly rests for a period beginning either with the date 12 months after the date on which he left that employment or, where this is later, the date on which he received such sum, and ending with the date on which he notified in writing that he desired these rules to apply to him.

(2) The interest payable under this rule shall not exceed a sum equal to one-half of the difference between the transfer value payable under these rules and the transfer value which would be payable if calculated by reference to the person's age on leaving local government employment.

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

St. Andrew's House,
Edinburgh.

17th September 1969.

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 pensionable employment with a local authority in Scotland to Membership of the House of Commons 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 scheme to which he transfers.

Under the powers conferred by section 2(5) of the Superannuation (Miscellaneous Provisions) Act 1948, the Rules apply to persons who have transferred before the coming into operation of the Rules, but a person who transfers to Membership of the House of Commons must have become a Member not earlier than 15th October 1964, and a person who transfers to a local authority must have ceased to be a Member after that date.