The Superannuation (Civil Servants and Teachers) (Scotland) Rules, 1950

1950 No. 820 (S. 55)

Made - - - -	18*th May*, 1950
Laid before Parliament	22*nd May*, 1950
Coming into Operation	1*st June*, 1950

The Treasury and the Secretary of State jointly in the exercise of the powers conferred upon them by Sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), hereby make the following Rules:—

PART I

INTRODUCTORY

Interpretation

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

(*a*) " Act of 1935 " means the Superannuation Act, 1935(b);

(*b*) " Act of 1946 " means the Education (Scotland) Act, 1946(c);

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

(*d*) " Act of 1949 " means the Superannuation Act, 1949(d);

(*e*) " civil servant " means a person serving in an established capacity in the permanent Civil Service of the State within the meaning of section 17 of the Superannuation Act, 1859(e), and " established service " shall be construed accordingly;

(*f*) " contributions " means contributions towards the cost of providing benefits under the Scheme of 1926;

(*g*) " pension " has the meaning assigned to it by the Act of 1948, except that it does not include a return of contributions;

(*h*) " return of contributions " means the return to a teacher of any balance of contributions under subparagraph (*a*) of paragraph (2) of article 14 or under paragraph (1) of article 14A of the Scheme of 1926;

(*i*) " Scheme of 1919 " means the Superannuation Scheme for Teachers in Scotland, dated the 5th day of June, 1919, and approved by His Majesty in Council on the 30th day of July, 1919(f);

(*j*) " Scheme of 1926 " means the Superannuation Scheme for Teachers (Scotland), 1926(g);

(*k*) " Superannuation Acts " means the Superannuation Acts, 1834 to 1949;

(*l*) " superannuation benefits " means superannuation allowances, compensations, retiring allowances, additional allowances and gratuities payable to or in respect of a civil servant under the Superannuation Acts, but

(a) 11 & 12 Geo. 6. c. 33.
(b) 25 & 26 Geo. 5. c. 23.
(c) 9 & 10 Geo. 6. c. 72.
(d) 12, 13 & 14 Geo. 6. c. 44.
(e) 22 Vict. c. 26.
(f) S.R. & O. 1919 (No. 1105) I, p. 688.
(g) S.R. & O. 1926 (No. 363) p. 449.

does not include any annual allowance or gratuity granted in the case of death or injury arising from service in accordance with the terms of a Treasury warrant;

(*m*) "teacher" includes any person who is deemed to be a teacher for the purposes of the Scheme of 1926;

(*n*) "Teachers Superannuation Account" means the account which is kept in accordance with section 106 of and the Fourth Schedule to the Act of 1946;

(*o*) "teaching service" has the meaning assigned to the expression "service" by paragraph (7) of article 1 of the Scheme of 1926, and includes periods which are deemed to be service under the provisions of article 16 of the said Scheme, but does not include any period of teaching service in respect of which the balance of contributions has been returned to the teacher unless the said balance has subsequently been repaid by the teacher, all in accordance with the provisions of paragraph (2) of article 14 or of article 14A of the Scheme of 1926.

(2) Other expressions which have meanings assigned to them by any of the above-mentioned Acts and Schemes shall, unless the context otherwise requires, have the same respective meanings for the purposes of these Rules.

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

(4) References in these Rules to any enactment, scheme or other instrument shall, except where the context otherwise requires, be construed as references to that enactment, scheme or other instrument as amended by or under any other enactment, scheme or other instrument.

PART II

TRANSFER FROM TEACHING SERVICE TO ESTABLISHED SERVICE

Reckoning of teaching service as established service

2.—(1) Where a person, being a teacher to whom the Scheme of 1926 applies, without having become entitled to any benefit under the said Scheme other than a return of contributions, becomes employed in established service within three months after ceasing to be employed in teaching service or within such longer period as the Secretary of State, with the consent of the Treasury, may allow in any particular case, then, subject as in these Rules provided—

(*a*) his teaching service shall be reckoned as established service; and

(*b*) neither he nor his legal personal representatives shall be entitled to a return of contributions under the Scheme of 1926 in respect of any service which has become reckonable as established service by virtue of this Rule.

(2) Subject to the provisions of paragraph (6) of this Rule, this Part of these Rules shall apply to a person as aforesaid notwithstanding that the cessation of his employment in teaching service or the commencement of his established service was before the date of the coming into operation of these Rules or before 28th May, 1948, being the date of the passing of the Act of 1948, but shall not apply to a person who died before the first-mentioned date.

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

(3) Where the established service of any such person as aforesaid has ceased on or after the date of the passing of the Act of 1948 but before the date of the coming into operation of these Rules and that person has become entitled to both a civil service pension and a teacher's pension, he shall, instead of being entitled to a separate teacher's pension, be entitled as from the date on which the said pensions became payable to such an adjustment of his civil service pension as would have been effected if these Rules had been in force on the last-mentioned date.

(4) If any person to whom the last foregoing paragraph applies has surrendered part of his annual retiring allowance under the provisions of article 18A of the Scheme of 1926, then—

(*a*) if he has elected that Part I of the Act of 1949 shall apply to him, he may cancel such surrender, but without prejudice to anything duly done or suffered during the time while such surrender was in force, and any such cancellation shall not become effective until the contribution falling to be made by virtue of such election has been paid ; and

(*b*) if he has not elected as aforesaid, or has elected but does not cancel his surrender, then—

(i) the amount of that part of his adjusted civil service pension which is related to his former teacher's pension shall be reduced by the amount which he surrendered from his said annual retiring allowance ;

(ii) any annuity which is being paid at the date of the coming into operation of these Rules in respect of his surrender of part of his said annual retiring allowance shall cease as from that date, and in place thereof there shall be payable as from that date such pension under the Act of 1935 as would have been payable if the said surrender had been an allocation made from his civil service pension ; and

(iii) in ascertaining the amount of any pension which will become payable on his death to his spouse or dependant under the Act of 1935 the said surrender from the said annual retiring allowance shall be deemed to have been an allocation from his civil service pension.

(5) Where any such person as is mentioned in paragraph (3) of this Rule has received any payments in respect of his teacher's pension, then—

(*a*) those payments shall be set-off against the payments due to him by virtue of the adjustment for which that paragraph provides ; and

(*b*) any payments received by him as aforesaid or by way of annuity under article 18A of the Scheme of 1926 shall be excluded from the Teachers Superannuation Account.

(6) This Part of these Rules shall not apply to any such person as aforesaid if—

(*a*) he is a person who before the date of the coming into operation of these Rules has become entitled to a civil service pension or a teacher's pension, unless within six months after that date he notifies the Treasury in writing that he wishes this Part of these Rules to apply to him ; or

(*b*) he is any other person as aforesaid and—

(i) his established service ceased before the date of the passing of the Act of 1948 and does not, by virtue of rules made under section 2 of that Act, become reckonable as pensionable service under another superannuation scheme ; or

(ii) he notifies the Treasury in writing that he does not wish this Part of these Rules to apply to him ; or

(iii) he has had a return of contributions after last ceasing to be employed in teaching service.

Transfer to Treasury of right to arrears of contributions

3.—(1) Where a person to whom this Part of these Rules applies was, at the date on which he ceased to be in teaching service, in course of making to the Secretary of State as a condition of reckoning past service, any payments or contributions additional to those required by section 103 of the Act of 1946, the right to receive the balance of the said payments or contributions shall be, and is hereby, transferred to the Treasury.

(2) Where a person's period of war service within the meaning of the Education (Scotland) (War Service Superannuation) Act, 1939(**a**), or period of national service within the meaning of the Teachers' Pensions (National Service) (Scotland) Rules, 1949(**b**), becomes reckonable as established service by virtue of these Rules, but the contributions in respect of the whole or any part of such war service or national service payable by that person in accordance with the said Act of 1939 or the Act of 1946 or the said Rules of 1949 have not been paid before the date when that person becomes employed in established service, the right to receive the contributions remaining unpaid by the said person on that date shall be, and is hereby, transferred to the Treasury. Any employer's contributions which remain unpaid on the said date shall be paid by the employer to the Secretary of State or shall be deducted from any grant payable to the employer by him.

Payment by Treasury of balance of contributions

4.—(1) Where a person who is subject to this Part of these Rules ceases to be employed in established service and no superannuation benefits are payable to him, or will become payable to him on his attaining a specified age, then, unless he has become employed in approved employment within the meaning of section 4 of the Superannuation Act, 1914(**c**), or his established service is transferable from the Superannuation Acts to some other superannuation system by virtue of rules made under section 2 of the Act of 1948 or by virtue of any other arrangements, he shall be entitled to receive from the Treasury a sum equal to the balance of his contributions as hereinafter in this Rule defined.

(2) Where a person who is subject to this Part of these Rules dies his legal personal representatives shall be entitled to receive from the Treasury a sum equal to the balance of that person's contributions.

(3) For the purposes of this Rule the expression " balance of contributions " means a balance of contributions computed as provided by paragraph (4) of article 1 of the Scheme of 1926 :

Provided that—

(i) where, as a condition of reckoning past service, any additional payments or contributions have been made by a person to the Treasury under paragraph (1) of Rule 3 of these Rules or where an amount due to be paid to the Treasury by way of such payments or contributions is deducted by the Treasury from any superannuation allowances granted to that person, those payments or contributions or that amount deducted shall be deemed to be contributions paid by that person under subsection 1 (*a*) of section 103 of the Act of 1946 ;

(ii) any payments made by the Treasury to a person or to his legal personal representatives by way of superannuation benefits or to his legal personal representatives by way of gratuity under section 2 of the Superannuation Act, 1909(**d**), shall be deemed to be payments made under the Scheme of 1926 ; and

(**a**) 2 & 3 Geo. 6. c. 96. (**b**) S.I. 1949 (No. 558) I, p. 1561. (**c**) 4 & 5 Geo. 5. c. 86. (**d**) 9 Edw. 7. c. 10.

(iii) where an additional allowance, or a gratuity under section 2 of the Superannuation Act, 1909, has been reduced by an amount due to be paid to the Treasury by way of additional payments or contributions as aforesaid, or reduced under sections 9 or 22 of the Act of 1949 (which sections relate to pensions to widows, children, etc., and dependants' pensions), or where part of an annual allowance has been surrendered under section 2 of the Act of 1935 or section 33 of the Act of 1949 (which sections provide for allocation from pension for the benefit of a spouse or dependant), the sums to be taken into account shall be the sums that would have been paid but for the reduction or surrender.

Reckoning of teaching service followed by other employment as established service

5.—(1) Where a person having previously been employed in teaching service—

(*a*) becomes employed in employment in England or Wales which is accepted by the Ministry of Education as provided in subparagraph (*a*) of paragraph (1) of article 12 of the Scheme of 1926 and is treated as teaching service under the said paragraph (1), and

(*b*) subsequently becomes employed in established service, and

(*c*) is entitled to reckon the said employment in England or Wales as established service under Rules made by the Treasury and the Minister of Education under section 2 of the Act of 1948,

his teaching service shall be reckoned as established service unless he notifies the Treasury in writing that he does not wish this Part of these Rules to apply to him.

(2) Where a person having previously been employed in teaching service—

(*a*) becomes employed in service which is reckonable as contributing service for the purposes of the Local Government Superannuation (Scotland) Act, 1937(**a**), and

(*b*) subsequently becomes employed in established service, and

(*c*) is entitled to reckon as established service under Rules made by the Treasury and the Secretary of State under section 2 of the Act of 1948 his service under the Local Government Superannuation (Scotland) Act, 1937, other than service which is reckonable under section 15 of that Act,

his teaching service, together with any service which was reckonable as non-contributing service under paragraph (*a*) of the proviso to section 15 aforesaid shall be reckoned as established service:

Provided that service which was reckonable as non-contributing service under paragraph (*a*) of section 15 aforesaid shall be reckonable at half its actual length for the purpose of determining the amount of any pension payable to or in respect of him.

Application of National Insurance modifications

6. A person who, when he last ceased to be in teaching service before becoming employed as an established civil servant, was subject to National Insurance modifications under the Scheme of 1926, shall be subject to the modifications for which the National Insurance (Modification of the Superannuation Acts) Regulations, 1948(**b**), provide, and a person who was not subject to National Insurance modifications under the said Scheme shall not be subject to modifications under the aforesaid regulations.

(**a**) 1 Edw. 8 & 1 Geo. 6. c. 69. (**b**) S.I. 1948 (No. 498) I, p. 3291.

PART III

TRANSFER FROM ESTABLISHED SERVICE TO TEACHING SERVICE

Reckoning of established service as teaching service

7.—(1) Where the conditions set forth in the next following paragraphs of this Rule are fulfilled in relation to a person who enters teaching service after leaving established service, the period of service on which superannuation benefits could have been computed under the Superannuation Acts may be deemed to be a period of teaching service for the purposes of the Scheme of 1926:

Provided that—

(i) any period of established service which is reckoned for the purposes of the Superannuation Acts at more than its actual length shall be similarly reckoned for the purposes of this Rule, except that it shall be reckoned at its actual length for the purpose of calculating the teacher's pensionable salary;

(ii) any period of service which is reckoned for the purposes of the Superannuation Acts at less than its actual length shall be similarly reckoned for the purposes of this Rule, except that it shall be reckoned at its actual length—

(*a*) for the purpose of calculating the teacher's pensionable salary, and

(*b*) in determining whether that person has served for the minimum period required by the Scheme of 1926 as a condition for any retiring allowance or gratuity to be paid to or in respect of him; and

(iii) for the purpose of subparagraph (*c*) of paragraph (1) of article 5 of the Scheme of 1926 the teacher shall be deemed to have become employed in teaching service on the date on which he became employed in established service.

(2) the conditions referred to in the last foregoing paragraph are as follows:—

(*a*) that the teacher had not become entitled to any benefits under the Superannuation Acts;

(*b*) that the teacher has discontinued established service with the consent of the Department in which he was employed; and

(*c*) that the teacher has entered teaching service within three months after ceasing to be employed in established service or within such longer period as the Treasury may allow in any particular case.

(3) The foregoing provisions of this Rule shall apply to a teacher notwithstanding that the cessation of his employment in established service or the commencement of his teaching service was before the date of the coming into operation of these Rules or before 28th May, 1948, being the date of the passing of the Act of 1948, but shall not apply to a person who died before the first-mentioned date.

(4) Where a teacher's teaching service has ceased on or after the date of the passing of the Act of 1948 but before the date of the coming into operation of these Rules and he has become entitled both to a civil service pension and to a teacher's pension, he shall, instead of being entitled to a separate civil service pension, be entitled as from the date on which the said pensions became payable to such an adjustment of his teacher's pension as would have been effected if these Rules had been in force on the said last-mentioned date.

(5) If any person to whom the last foregoing paragraph applies has made an allocation from his civil service pension under the provisions of the Act of 1935:—

(*a*) the amount of that part of his adjusted annual retiring allowance under the Scheme of 1926 which is related to his former civil service pension shall be reduced by the amount which he surrendered under the Act of 1935;

(*b*) any pension which is being paid at the date of the coming into operation of these Rules in respect of his allocation of civil service pension shall cease as from that date, and in place thereof there shall be payable as from that date such annuity as would have been payable if the said allocation had been made from his said annual retiring allowance; and

(*c*) in ascertaining the amount of any pension which will become payable on his death to his spouse or dependant under the Scheme of 1926, the allocation shall be deemed to have been made from his said annual retiring allowance and not from his civil service pension.

(6) Where any such person as is mentioned in paragraph (4) of this Rule has received any payments in respect of his civil service pension those payments shall be set-off against the payments due to him by virtue of the adjustment for which that paragraph provides.

(7) This Part of these Rules shall not apply to any such person as aforesaid if—

(*a*) he is a person who before the date of the coming into operation of these Rules has become entitled to a civil service pension or a teacher's pension, unless within six months after that date he notifies the Secretary of State in writing that he wishes this Part of these Rules to apply to him; or

(*b*) he is any other person as aforesaid and—

(i) he is not employed in teaching service on or after the date of the passing of the Act, unless, by virtue of rules made under section 2 of the Act of 1948, his teaching service becomes reckonable as pensionable service under another superannuation scheme; or

(ii) he notifies the Secretary of State in writing that he does not wish this Part of these Rules to apply to him.

Transfer to Secretary of State of right to arrears of contributions

8.—(1) Where a person to whom this Part of these Rules applies was, at the date on which he ceased to be employed in established service, in course of making any payments or contributions as a condition of reckoning past service, the right to receive the balance of the said payments or contributions shall be, and is hereby, transferred to the Secretary of State.

(2) All sums received by the Secretary of State under this Rule shall be paid into the Education (Scotland) Fund.

Application of National Insurance modifications

9.—(1) A person who was subject to the National Insurance (Modification of the Superannuation Acts) Regulations, 1948, at the date when he ceased to be employed in established service shall, on entering teaching service, be deemed to be a teacher of the first category within the meaning of article 2A of the Scheme of 1926 (which article relates to the classification of teachers in relation to National Insurance).

(2) A person who was not subject to the Regulations mentioned in the last foregoing paragraph at the date on which he ceased to be employed in established service shall, on entering teaching service, be deemed to be an existing teacher within the meaning of article 2A of the Scheme of 1926, and paragraph (3) of that article shall, with the necessary modifications, apply to him.

PART IV

GENERAL

Teachers under Scheme of 1919

10. These Rules shall, with the necessary modifications, apply to teachers to whom the Scheme of 1919 applies as they apply to teachers to whom the Scheme of 1926 applies.

Teachers Superannuation Account

11. In respect of any person who is subject to the provisions of Part II or Part III of these Rules, the Teachers Superannuation Account shall show the revenue which would be received or the expenditure which would be incurred if a transfer value were payable to or by the Secretary of State of such amount as shall be determined by the Treasury to represent the liability of which the Treasury or the Secretary of State, as the case may be, is relieved.

Citation and commencement

12.—(1) These Rules may be cited as the Superannuation (Civil Servants and Teachers) (Scotland) Rules, 1950.

(2) These Rules shall come into operation on 1st June, 1950.

H. W. Bowden,
Charles Royle,
Two of the Lords Commissioners of
His Majesty's Treasury.

Hector McNeil,
One of His Majesty's Principal
Secretaries of State.

18th May, 1950.

EXPLANATORY NOTE

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

The purpose of these Rules is to preserve the superannuation rights of persons who transfer from pensionable service under the Scottish Teachers Superannuation Scheme to pensionable service under the Superannuation Acts relating to the Civil Service or vice versa. Where such a transfer is made the person is enabled to reckon the whole of his pensionable service for pension under the superannuation system to which he transfers.

Provision for the retrospective effect of the Rules (subject to the right of the person concerned in such cases to elect not to come under them) is made in section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948.