1971. No. 94 **[C]**

SUPERANNUATION

Transfers between the Civil Service and Local Government

RULES, DATED 30TH MARCH 1971, MADE BY THE MINISTRY OF FINANCE JOINTLY WITH THE MINISTRY OF DEVELOPMENT UNDER SECTION 33 OF THE SUPERANNUATION ACT (NORTHERN IRELAND) 1967 AND BY THE MINISTRY OF FINANCE UNDER SECTION 34 OF THE SAID ACT.

The Ministry of Finance and the Ministry of Development, acting jointly in exercise of the powers conferred upon them by section 33 of the Superannuation Act (Northern Ireland) 1967(**a**) and of all other powers enabling them in that behalf, hereby make the rules contained in parts I and II hereof and the Ministry of Finance, in exercise of the powers conferred upon it by section 34 of the said Act, and of all other powers enabling it in that behalf, hereby makes the rules contained in parts I and III hereof.

PART I

GENERAL

Citation and commencement

1. These rules may be cited as the Superannuation (Civil Service and Local Government) Interchange Rules (Northern Ireland) 1971 and shall come into operation on 1st April 1971.

Interpretation

2. In these rules—

"the Act" means the Superannuation Act (Northern Ireland) 1967;

"the Act of 1950" means the Local Government (Superannuation) Act (Northern Ireland) 1950(**b**);

"added years" means in relation to a contributory employee any additional years of service reckonable by him under the provision in that behalf contained in any regulations or scheme made under the Act of 1950 and includes any additional years of service which, having been granted under any similar provision contained in any other scheme or any enactment have subsequently become reckonable in his employment as a contributory employee;

"the appropriate authority" means in relation to a person who was a pensionable employee before becoming employed as a civil servant, the local authority by which he was employed as a pensionable employee and in relation to a person who was a contributory employee before becoming employed as a civil servant or who becomes a contributory employee after ceasing to be employed as a civil servant, the body maintaining the superannuation fund to which he was a contributor or becomes a contributor as the case may be;

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

(a) 1967. c. 24 (N.I.). (b) 1950. c. 10.

"contributing service" means service which is reckonable as contributing service for the purpose of superannuation benefits provided under any regulations or scheme made under the Act of 1950;

"contributory employee" means a person who has been duly admitted to participate in superannuation benefits provided under any regulations or scheme made under the Act of 1950;

"non-contributing service" means service which is reckonable as non-contributing service for the purpose of superannuation benefits provided under any regulations or scheme made under the Act of 1950;

"pension" has the meaning assigned to it by section 33(7) of the Act;

"pensionable employee" means a person employed in employment which is pensionable under any of the enactments set out in the first column of the second schedule to the Act of 1950 or under any such enactment as extended or applied by any of the enactments set out in the second column of that schedule, or any local Act which makes provision for the superannuation of any officers of a local authority;

"pensionable employment" has the meaning assigned to it by section 33(7) of the Act;

"the superannuation Acts" means the Superannuation Acts (Northern Ireland) 1967 and 1969;

"transfer value" has the same meaning as "accrued superannuation value" as that expression is defined in the Act;

"voluntary contributions" means, in relation to a person who has ceased to be a contributory employee, 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 made as a condition of the person being entitled to reckon the service in relation to which the payments are made as a period of contributing service;

(ii) any payments made in respect of added years; or

(iii) any payments of a similar nature which, having been commenced in a previous employment, were continued in his employment as a contributory employee.

Revocation

3. The Superannuation (Transfers between the Civil Service and Local Government) Rules (Northern Ireland) 1952(**c**) and the Superannuation (Transfers between the Civil Service and Local Government) (Amendment) Rules (Northern Ireland) 1965(**d**) are hereby revoked.

PART II

TRANSFERS FROM LOCAL GOVERNMENT EMPLOYMENT TO THE CIVIL SERVICE

Application

4.—(1) This part shall apply to any person who—

(*a*) becomes employed as a civil servant within twelve months after ceasing to be either a pensionable employee or a contributory employee or within such longer period as the Ministry of Finance may, with the consent of the appropriate authority, allow in any particular case; and

(**c**) S.R. & O. (N.I.) 1952, No. 163. (**d**) S.R. & O. (N.I.) 1965, No. 199.

(*b*) has not received payment of a pension, other than a return of contributions, in respect of his previous pensionable employment; and

(*c*) within three months after the date on which he becomes employed as a civil servant or such longer period as the Ministry of Finance may allow in any particular case notifies the Department in which he is then employed that he desires these rules to apply to him and furnishes such Department with particulars of his previous pensionable employment; and

(*d*) if he has received any payment by way of a return of contributions, other than voluntary contributions, on or after ceasing to be a contributory employee, pays to the Ministry of Finance within three months after the date on which he becomes employed as a civil servant or within such longer period as the Ministry of Finance may allow in any particular case—

(i) a sum equal to such payment together with any interest included therein; and

(ii) any sum deducted from such payment in respect of income tax; and

(iii) where he becomes a civil servant more than twelve months after ceasing to be a contributory employee, a sum representing compound interest on the sums specified at (i) and (ii), calculated at a rate of three per cent. per annum with half-yearly rests for a period beginning either with the date twelve months after the date on which he ceased to be a contributory employee or, where this is later, the date on which he received the sum specified at (i), and ending with the date on which he notified his desire that these rules should apply to him, but not exceeding half the difference between the amount of a transfer value calculated by reference to his age on ceasing to be a contributory employee and a transfer value calculated by reference to his age on becoming a civil servant.

(2) This part shall apply to such person as aforesaid and shall be deemed always to have applied to him notwithstanding that he ceased to be a pensionable employee or a contributory employee or became employed as a civil servant before the coming into operation of these rules:

Provided that—

(*a*) if he has ceased to be employed as a civil servant before the coming into operation of these rules, the Ministry of Finance consents; and

(*b*) he ceased to be a pensionable employee or contributory employee on or after the 1st April 1950; and

(*c*) the appropriate authority consents.

(3) In this part a person to whom this part applies is referred to as "the officer".

Reckoning of service

5.—(1) If the Ministry of Finance receives from the appropriate authority a transfer value, calculated in accordance with a method approved by the said Ministry, less an amount equal to any sum which may become payable by way of income tax in respect of the amount transferred by way of transfer value, in respect of the service which the officer was entitled to reckon as pensionable employment immediately before he ceased to be either a pensionable employee or a contributory employee, that service shall, subject to and in accordance with the conditions in this part, be reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant.

(2) Where by virtue of any Act or scheme any period of service is reckoned at a fraction of its actual length for the purpose of calculating the transfer value referred to in paragraph (1), then only that fraction of that period of service shall be reckoned for the purpose of calculating the amount of any benefit payable under the Superannuation Acts as service in the capacity of a civil servant.

(3) Where part of the officer's service is reckonable at the time he ceased to be a contributory employee as non-contributing service, that part shall as to one half of the period thereof be reckoned for the purpose of calculating the amount of any benefit payable under the Superannuaton Acts as service in the capacity of a civil servant.

(4) Where the officer was in his pensionable employment a part-time employee, the period of his service as such part-time employee shall for the purpose of calculating the amount of any benefit payable under the Superannuation Acts be treated as if it had been whole-time service for a proportionately reduced period.

(5) For the sole purpose of determining whether the officer 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—

(*a*) there shall be reckoned as service in the capacity of a civil servant any service which in the officer's previous pensionable employment was reckonable solely for the purpose of determining whether any pension was payable to or in respect of him; and

(*b*) service of the kind referred to in paragraphs (2), (3) and (4) shall be reckoned as to the whole period thereof.

Continuation of additional contributory payments and payments in respect of added years

6.—(1) Where the officer was, at the time when he ceased to be a contributory employee, in the course of making additional contributory payments as a condition of being entitled to reckon the service or employment in relation to which those payments were being made as a period of contributing service, he shall be entitled, when giving notice to the Department in pursuance of rule 4(1)(*c*), to elect to continue those payments in the manner provided by this paragraph, and—

(*a*) if he does so elect, and pays forthwith to the Ministry of Finance a sum equal to any sum paid to him by way of a return of such payments on or after ceasing to be a contributory employee, he shall be liable to pay the outstanding payments to the Ministry of Finance in the manner in which and at the times at which they would have been payable by him if he had remained such an employee and, if he makes those payments, the service or employment in respect of which they are made shall be reckonable for the purposes of the Superannuation Acts in the manner in which it would, by virtue of these rules, have been reckonable if, immediately before he ceased to be such an employee, he had been under no further liability in respect of such payments;

(*b*) if he does not so elect, or if he fails to pay any sum payable to the Ministry of Finance under sub-paragraph (*a*), then, for the purposes of the Superannuation Acts, account shall be taken of the service or employment in respect of which the payments were being made only to the extent (if any) to which, by virtue of these rules, account would have been taken of that service or employment if he had not been in the course of making such payments when he ceased to be a contributory employee.

(2) Where the officer was, at the time when he ceased to be a contributory employee, in the course of making payments in respect of added years, he shall be entitled, when giving notice to the Department in pursuance of rule 4(1)(*c*), to elect to continue to make the like payments to the Ministry of Finance in respect of the said added years as he would have been liable to make to the superannuation fund to which he was a contributor, and, if he does so elect and pays forthwith to the Ministry of Finance a sum equal to any sum paid to him by way of a return of any such payments on or after ceasing to be a contributory employee, he shall be liable to make payments to the Ministry of Finance in respect of the said added years in the manner in which and at the times at which he would have been liable to make them if he had remained such an employee, and, if he makes those payments, he shall be entitled to have added years reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant:

Provided that—

(*a*) the said added years shall not be reckonable for the purposes of the Superannuation Acts if the officer ceased to be a contributory employee in such circumstances that in consequence of a resolution of the authority by whose consent the added years first became reckonable he ceased to be entitled to reckon the added years; and

(*b*) no account shall be taken of added years for the purpose of determining whether the officer 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.

Reckoning of increased service in certain cases

7. Where the appropriate authority or the authority by which the officer was employed at the time when he ceased to be a pensionable employee or a contributory employee within three months after the date on which he notifies the Department in which he becomes employed that he desires these rules to apply to him—

(*a*) exercises any discretion which, with a view to increasing the benefits payable to him, it would have been open to it to exercise at the time when he left its employment if he had then retired and had been entitled to a retirement pension; and

(*b*) by reason of the exercise of that discretion the period of service reckonable immediately before he ceased to be a pensionable employee or a contributory employee is increased,

then any such increase in the period of the reckonable service shall for the purposes of these rules be deemed to be a period of service which the officer was entitled to reckon as pensionable employment immediately before he ceased to be a pensionable employee or a contributory employee, provided that the transfer value receivable under rule 5 is appropriately increased.

Return of contributions

8. Where the officer ceases to be a civil servant in circumstances which do not render him eligible for a superannuation allowance under the Superannuation Acts, the Ministry of Finance may, provided that he has not been dismissed in consequence of an offence of a fraudulent character or of grave misconduct, pay to or in respect of him whichever is the greater of the following sums:—

(*a*) a sum equal to the amount which might have been paid to or in respect of him by way of a return of contributions under the superannuation regulations or scheme to which he was subject as a contributory employee if when he ceased to be a contributory employee he had ceased to be such an employee in similar circumstances together with any sums paid to the Ministry of Finance under rule 6; or

(*b*) such a sum as the officer may be eligible to receive or as may be paid in respect of him under the Superannuation Acts by way of a short service gratuity or a death gratuity.

National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland) 1948

9. The provisions of the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland) 1948(**e**) shall not apply to the officer if in his employment as a pensionable employee or a contributory employee no corresponding provisions applied to him.

PART III

PAYMENT OF TRANSFER VALUES IN RESPECT OF PERSONS TRANSFERRING FROM THE CIVIL SERVICE TO LOCAL GOVERNMENT EMPLOYMENT

Application

10.—(1) This part shall apply to any person who—

(*a*) becomes a contributory employee within twelve months after ceasing to be employed as a civil servant or within such longer period as the Ministry of Finance may, with the consent of the appropriate authority, allow in any particular case; and

(*b*) has before or after changing his employment as aforesaid obtained from the Department in which he ceased to be employed consent to his employment as a contributory employee; and

(*c*) has not received payment of a pension under the Superannuation Acts; and

(*d*) within three months after the date on which he becomes a contributory employee or within such longer period as the appropriate authority may allow in any particular case, notifies that authority that he desires these rules to apply to him and furnishes it with particulars of his service as a civil servant.

(2) This part shall apply to such person as aforesaid and shall be deemed always to have applied to him notwithstanding that he ceased to be employed as a civil servant or became a contributory employee before the coming into operation of these rules:

Provided that—

(*a*) if he has ceased to be a contributory employee before the coming into operation of these rules, the appropriate authority consents; and

(*b*) he ceased to be employed as a civil servant on or after the 1st April 1950; and

(*c*) the Ministry of Finance consents.

(3) In this part, a person to whom this part applies is referred to as "the officer".

(e) S.R. & O. (N.I.) 1948, No. 91.

Transfers values payable

11. The Ministry of Finance may upon these rules becoming applicable to the officer pay to the appropriate authority a transfer value, calculated in accordance with rules made by the Ministry of Finance for the calculation of transfer values, less an amount equal to any sum which may become payable by way of income tax in respect of the amount transferred by way of transfer value, in respect of such service of the officer as was reckonable for the purpose of the Superannuation Acts as service in the capacity of a civil servant:

Provided that the transfer value payable in respect of an officer who becomes a contributory employee more than twelve months after ceasing to be employed as a civil servant shall be calculated by reference to his age on the date when he becomes a contributory employee.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 30th day of March 1971.

(L.S.) *R. M. MacDonald,*
Assistant Secretary.

Sealed with the Official Seal of the Ministry of Development for Northern Ireland this 30th day of March 1971.

(L.S.) *J. A. D. Higgins,*
Assistant Secretary.

EXPLANATORY NOTE

(This note is not part of the rules but is intended to indicate their general purport.)

These rules consolidate with amendments rules made in 1952 and amending rules made in 1965 for superannuation interchange between the Civil Service and the Local Government service. The main amendment gives the Ministry of Finance a discretion to extend the permissible length of any break between employments.

1971. No. 95

This Order has been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading ROADS.