INTERCHANGE RULES

1952 No. 937

The Superannuation (English Local Government and Northern Ireland) Interchange Rules, 1952

Made - - - -	8*th May*, 1952
Laid before Parliament	9*th May*, 1952
Coming into Operation	16*th May*, 1952

The Minister of Housing and Local Government, in exercise of the powers conferred by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), hereby makes the following rules :—

1.—(1) These rules may be cited as the Superannuation (English Local Government and Northern Ireland) Interchange Rules, 1952, and shall come into operation on the sixteenth day of May, 1952.

(2) In these rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

" the Minister " means the Minister of Housing and Local Government ;

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

" the Act of 1937 " means the Local Government Superannuation Act, 1937(b) ;

" the Committee " means the Northern Ireland Local Government Officers' Superannuation Committee ;

" the Corporation " means the Lord Mayor, Aldermen and Citizens of the City of Belfast acting by the Council and includes a Committee thereof ;

" 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(c), 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 ;

" Northern Ireland employing authority " means the Corporation and any employing authority within the meaning of the regulations made by the Ministry of Health and Local Government for Northern Ireland under section 2 (1) of the Local Government (Superannuation) Act (Northern Ireland), 1950 ;

" pensionable employee " in relation to a Northern Ireland employing authority means an employee whether permanent or temporary who has been duly admitted to participate in the benefits of the superannuation scheme administered by the Committee or the Corporation, as the case may be ;

(a) 11 & 12 Geo. 6. c. 33. (b) 1 Edw. 8 & 1 Geo. 6. c. 68. (c) 14 & 15 Geo. 6. c. 65.

"war service", in relation to England and Wales means war service within the meaning of the Local Government Staffs (War Service) Act, 1939(a), 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, and in relation to Northern Ireland means war service within the meaning of the Local Government Staffs (War Service) Act (Northern Ireland), 1939, or service in any of the naval, military, or air forces of the Crown, or employment for war purposes, within the meaning of the Superannuation Schemes (War Service) Act (Northern Ireland), 1941;

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

2.—(1) Where a person becomes or has become before the date of the coming into operation of these rules a pensionable employee of a Northern Ireland employing authority within a period of twelve months after the date on which the person ceased to be employed in employment by virtue of which he was or was deemed to be a contributory employee or local Act contributor or in employment (not being such employment as aforesaid) by virtue of which he was entitled to participate in any of the benefits of a superannuation fund maintained under a local Act scheme, or in the case of a person who left such employment in order to undertake war service or who immediately after leaving such employment became engaged in national service, within six months after the termination of that service, and without having become entitled to any benefit under the Act of 1937 or the local Act scheme to which he was subject, other than a return of contributions, then, if he notifies the Northern Ireland employing authority in writing within three months after entering their employment or, if he entered their employment before the date of the coming into operation of these rules, within six months after that date, that he desires these rules to apply to him, and if he ceased to hold his former employment before the said date the authority maintaining the fund to which he was a contributor consent, the like transfer value shall be payable to the Committee or the Corporation, as the case may be out of the fund to which the person was a contributor by the authority maintaining that fund as would have been payable under the Local Government Superannuation (Transfer Value) Regulations, 1939(c), 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:

Provided that—

(*a*) this rule shall not apply in relation to any person unless within three months after entering the employment of the Northern Ireland employing authority, or, if he entered their employment before the date of the coming into operation of these rules, within six months after that date, he furnishes them with particulars of his previous pensionable employment and war service or national service (if any) and pays to them an amount equal to any sum paid to him by way of a return of contributions, not being contributions made voluntarily for the purpose of securing benefits for his widow, children or other dependents, on his ceasing to hold his former employment;

(a) 2 & 3 Geo. 6. c. 94. (b) 52 & 53 Vict. c. 63.
(c) S.R. & O. 1939/329; Rev. XVII, p. 847; 1939 II, p. 2604.

(*b*) this rule shall not apply in relation to any person who became a pensionable employee of a Northern Ireland employing authority before the date of the coming into operation of these rules unless he ceased to hold his former employment not earlier than the fourth day of February, 1948, and he has been such a pensionable employee without a break of more than twelve months at any one time, excluding any period of war service or national service, after ceasing to hold his former employment until the date of the coming into operation of these rules, or if he has ceased to be such a pensionable employee before that date, until the date when he so ceased;

(*c*) the reference in this rule 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 Minister may in any particular case allow;

(*d*) 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;

(*e*) the transfer value payable in respect of a person who was entitled to reckon any service by virtue of subsection (1) of section 17 of the Act of 1937 shall be calculated as if the words "other than such service as is mentioned in proviso (*a*) to that subsection" had been omitted from the definition of 'service' in paragraph 1 of the First Schedule to the Local Government Superannuation (Transfer Value) Regulations, 1939; and

(*f*) 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**), (hereinafter called "the Act of 1909") shall be calculated as if there had been no reference in the definition of 'service' aforesaid to such a person.

(2) Where a transfer value is payable in respect of a person who before becoming a contributor to a superannuation fund maintained by a local authority under the Act of 1937 or a local Act scheme had been an established officer or servant within the meaning of the Act of 1909, as extended by any subsequent enactment, and had been a person to whom any regulations for the time being in force under Part V of the Second Schedule to the Act of 1937, whether as originally made or as amended by any statutory provision, had been applicable, and where 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 subject to the Act of 1937 or the local Act scheme, have been liable to contribute to that allowance, that body or the appropriate authority in relation to that body as defined in regulation 47 (9) of the National Health Service (Superannuation) Regulations, 1947(**b**), shall make a payment to the authority maintaining the fund out of which the transfer value is payable of an amount equal to the transfer value which that body or the appropriate authority aforesaid would have been liable to pay to the Minister under regulation 47 (3) of the regulations aforesaid if that regulation had become applicable to the person on the date when he became a pensionable employee of the Northern Ireland employing authority, and where that body or the appropriate authority aforesaid would in those circumstances have had in respect of any such contribution to a superannuation allowance as aforesaid a right

(a) 9 Edw. 7. c. 48. (b) S.R. & O. 1947/1755; Rev. XV, p. 799; 1947 I, p. 1373.

of contribution from any other body, that other body or the appropriate authority in relation thereto as so defined as aforesaid shall make a payment to the authority maintaining the superannuation fund aforesaid of an amount equal to the transfer value which that other body or the appropriate authority aforesaid would have been liable to pay to the Minister under regulation 47 (4) of the regulations aforesaid if that regulation had become applicable to the person when he became a pensionable employee of the Northern Ireland employing authority.

3.—(1) Where a person becomes or has become a pensionable employee of a Northern Ireland employing authority after having ceased to be subject to the Act of 1937, and these rules have become applicable in relation 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 Northern Ireland employing authority of his notification that he desires these rules to apply to him, resolve that the whole or any part of his non-contributing service (if any) shall be reckonable as contributing service.

(2) Where a person becomes or has become a pensionable employee of a Northern Ireland employing authority after having ceased to be subject to the Act of 1937 or a local Act scheme, and these rules have become applicable in relation to him, then, if the Act of 1937 or any local Act modifying the Act of 1937 or the local Act scheme conferred a discretion on the authority or body by whom he was employed or the authority administering the scheme to which he was subject, as the case may be, in calculating any benefit to which that person might have become entitled on ceasing to be employed, to add a number of years to the number of years which that person had actually served in the aggregate, that authority or body may, within three months after the date on which they are informed by the Northern Ireland employing authority of his notification that he desires these rules to apply to him, exercise that discretion in relation to him, notwithstanding that he has not become entitled to that benefit.

(3) Where a person becomes or has become a pensionable employee of a Northern Ireland employing authority after having ceased to be subject to the Act of 1937, and these rules have become applicable to him in relation to that employment, then, if a scheme modifying the Act of 1937 conferred a discretion on the local authority by whom he was formerly employed to increase in respect of any period of service the rate for the calculation of any benefit to which he might have become entitled on ceasing to be employed, and that period of service would but for the provisions of this paragraph be reckonable at a fraction of its actual length for the purpose of calculating the transfer value payable by the authority under rule 2 of these rules, the authority may, within three months after they are informed by the Northern Ireland employing authority of his notification, resolve that that period of service shall for that purpose be reckonable at its full length.

(4) For the purposes of the last preceding rule, any period of non-contributing service of a person in respect of which a resolution has been passed under paragraph (1) of this rule, and any number of years added to a person's service under either paragraph (1) or (2) shall be deemed to be a period of service which that person was entitled to reckon immediately before ceasing to hold his former employment as a period of contributing service for the purposes of the Act of 1937 or as a period of service for the purposes of the local Act scheme, as the case may be.

(5) Where the amount of any transfer value payable under the last preceding rule is increased in consequence of the exercise by an authority or body of any power conferred upon them by paragraph (1), (2) or (3) 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.

4.—(1) Where a person enters or has entered employment by virtue of which he is or is deemed to be a contributory employee or local Act contributor, or employment (not being such employment as aforesaid) by virtue of which he is entitled to participate in any of the benefits of a superannuation fund maintained under a local Act scheme, within a period of twelve months after ceasing to be a pensionable employee of a Northern Ireland employing authority, or if he ceased to be such an employee in order to undertake war service or national service within a period of six months after the termination of that service, then, if the authority maintaining the fund to which he is a contributor receive from the Committee or the Corporation, as the case may be, a transfer value calculated in accordance with a method approved by the Minister in respect of the contributing service and non-contributing service (if any) which the person was entitled to reckon for the purposes of the pension scheme administered by the Committee or the Corporation, as the case may be, immediately before he ceased to be employed by the Northern Ireland employing authority, he shall be entitled to reckon that service as contributing service, non-contributing service or service for the purposes of the local Act scheme, as the case may be, in the same manner as if it had been contributing service or non-contributing service within the meaning of the Act of 1937, and he shall also be entitled to reckon for the purpose of determining whether any benefit is payable to or in respect of him under the Act of 1937 or the local Act scheme any service which would have been reckonable for the purpose of determining whether any benefit was payable to or in respect of him under the said pension scheme:

Provided that—

(*a*) this rule shall not apply to any person unless within three months after entering his new employment, or, if he entered that employment before the date of the coming into operation of these rules, within six months after that date, 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, furnishes them with particulars of his previous pensionable employment and war service or national service (if any) and pays to them an amount equal to any sum paid to him by way of a return of contributions on or after his ceasing to hold his former employment;

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(*b*) this rule shall not apply in relation to any person who became a contributor to a superannuation fund maintained by a local authority before the date of the coming into operation of these rules unless he ceased to hold his former employment not earlier than the fourth day of February, 1948, and he has been such contributor without a break of more than twelve months at any one time, excluding any period of war service or national service, after ceasing to hold his former employment;

(*c*) where any service of a person for the purposes of the said pension scheme administered by the Committee or the Corporation, as the case may be, would have been reckonable for the calculation of benefits as non-contributing service under that scheme at a higher rate than one

one-hundred-and-sixtieth of his emoluments in respect of each completed year or part of a year exceeding six months of that service, then, for the purposes of this rule, except for the purpose of determining whether any benefit is payable to or in respect of him under the Act of 1937, or the local Act scheme, that service shall be treated as though it had been contributing service of such proportion of the actual length of that service as is obtained by multiplying the number of years of its actual length by eighty and dividing the product by the denominator of the fraction constituting such higher rate as aforesaid ;

(*d*) any service which would have been treated for the purposes of the said superannuation scheme administered by the Committee or the Corporation, as the case may be, as being eight-fifths of the actual length thereof shall be so treated for the purposes of the Act of 1937 or the local Act scheme ; and

(*e*) where a person has ceased to be a pensionable employee of the Corporation and this rule has become applicable to him, then, if the Corporation, within three months after the date on which they were informed of his notification that he desires this rule to apply to him, resolve to add a number of years to the number of years which that person had actually served in the aggregate, the number of years so added shall be deemed to be a period of service which that person was entitled to reckon as contributing service for the purposes of the pension scheme administered by the Corporation immediately before he ceased to be employed by the Corporation.

(2) Where a person to whom this rule has become applicable was in his pensionable employment under a Northern Ireland employing authority a part-time employee and held no other pensionable employment, the period of his service as such part-time employee shall be treated for the purposes of this rule as if it had been whole-time service for a proportionately reduced period.

5.—(1) Where any person to whom the last preceding rule has become applicable was in the course of making but had not completed making additional contributory payments under the pension scheme applicable to him as an employee of the Northern Ireland employing authority in respect of any period of non-contributing service as a condition of being entitled to reckon an increased fraction of his average remuneration in respect of any year of that service, then proviso (*c*) to sub-paragraph (1) of the last preceding rule shall not apply to the reckoning of that service unless such person pays to the authority maintaining the fund to which he has become a contributor sums equal to the additional payments which he would have been liable to make, at the times at which and in the manner in which those additional payments would have been made to the Northern Ireland employing authority.

(2) Where a person is making payments in accordance with the preceding paragraph, he shall be deemed, if he is a contributory employee, to be making those payments under the regulations for the time being in force under proviso (ii) to section 8 (2) (*b*) of the Act of 1937, and if he is a local Act contributor, to be making those payments pursuant to the provisions of the local Act scheme.

6. Where any person to whom rule 4 of these rules has become applicable had before entering his new employment been engaged in any such war service or national service as is therein referred to, the period of service which he becomes entitled to reckon under the said rule shall be treated as being increased by the period of such war service or national service to

the extent (if any) to which the said period of such war service or national service would have been reckonable as pensionable service for the purposes of the pension scheme to which he was subject as an employee of a Northern Ireland employing authority, had the person again become a pensionable employee of the Northern Ireland employing authority on the termination of such war service or national service:

Provided that this rule shall not apply in any case in which a period of national service would have been so reckonable as aforesaid unless the transfer value received from the Committee or the Corporation, as the case may be, under rule 4 of these rules was calculated so as to include this liability of which the Committee or the Corporation, as the case may be, was relieved in respect of the said period of national service.

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7. 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 to any person in relation to whom rule 2 of these rules has become applicable.

8. The provisions of section 10 of the Act of 1937, and the corresponding provisions of any local Act scheme, shall have effect in relation to a contributory employee or local Act contributor who has been a pensionable employee of a Northern Ireland employing authority as if references therein to contributions which may be returned thereunder on such an employee or contributor ceasing to be employed or dying included references to contributions and additional contributions to which he was entitled on ceasing to be a pensionable employee of a Northern Ireland employing authority, in so far as any such contributions have not been returned to and retained by him, and are attributable to service which might have been reckoned under the Act of 1937 or the local Act scheme, as the case may be, for the purposes of superannuation allowance in respect of the employment which he has ceased to hold or in which he has died, as the case may be:

Provided that if the pension scheme associated with his former employment made provision for the calculation of interest on contributions returned thereunder in a different manner from that provided by the Act of 1937 or local Act scheme, interest on the contributions to which the person was so entitled as aforesaid shall, on their becoming returnable under the Act of 1937 or local Act scheme as modified by this rule, be calculated in manner provided by the said pension scheme, up to the date on which he became a contributory employee or local Act contributor, or, if he received a return of those contributions before that date, up to the date of such return.

9. Where any person to whom rule 4 of these rules has become applicable was in his former employment under a Northern Ireland employing authority an insured person within the meaning of the National Insurance Act (Northern Ireland), 1946, then—

(*a*) if he had been excepted from the operation of any provision (hereinafter called "the modification provision") of the pension scheme administered by the Committee or the Corporation, as the case may be, modifying the benefits provided by the scheme in relation to any such insured person as aforesaid, the provisions of any regulations made by the Minister under subsection (4) of section 69 of the National Insurance Act, 1946(**a**), shall not apply to him;

(a) 9 & 10 Geo. 6. c. 67.

(*b*) if he had not been so excepted—

(i) the provisions of the said regulations shall apply to him as if any service which he becomes entitled to reckon under rule 4 of these rules, being service of which account would have been taken under the modification provision for the purpose of reducing any benefit to which the person might have become entitled under the said pension scheme had he continued to be subject thereto, were contributing service or service for the purposes of the local Act scheme, as the case may be, rendered on or after the fifth day of July, 1948; and

(ii) if the modification provision modified any benefit to which he might have become entitled under the said pension scheme by reference to a Table and to his age at a given date, the said regulations shall have effect as if any provision therein modifying superannuation benefits by reference to a Table and the age of a person at a given date applied in his case, except that the reference to his age at that date shall be construed as a reference to his age at the date which was relevant for the purposes of the modification provision:

Provided that paragraph (*b*) (ii) of this rule shall not apply to any person unless the modification provision, or any corresponding provision modifying the benefits provided by any pension scheme to which he was formerly subject in employment which was reckonable as service for the purposes of the pension scheme administered by the Committee or the Corporation, as the case may be, applied to him on or before the fifth day of July, 1948.

10. These rules shall not apply in relation to persons entering or leaving the employment of any Northern Ireland employing authority if the Minister at any time so directs on being satisfied that the pension scheme associated with the employment of persons by that authority does not confer rights in respect of previous pensionable service of persons entering that employment after having ceased to be subject to the Act of 1937 or a local Act scheme which are reasonably equivalent to those conferred by these rules in respect of previous pensionable service of persons leaving employment under a Northern Ireland employing authority and becoming subject to the Act of 1937 or a local Act scheme:

Provided that the Minister may at any time withdraw any such direction as aforesaid which he may have given on being satisfied that the need for the direction no longer exists.

11. The provisions of section 35 of the Act of 1937 shall have effect in relation to a person who becomes a contributory employee or a person who is deemed to be a contributory employee in circumstances in which these rules apply as if the reference therein to regulations made under that Act included a reference to these rules.

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09/710 Given under the official seal of the Minister of Housing and Local Government this eighth day of May, nineteen hundred and fifty-two.

(L.S.) *Harold Macmillan,*
Minister of Housing and Local Government.

EXPLANATORY NOTE

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

Section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948, empowers the Minister of Housing and Local Government (to whom the powers of the Minister of Health in that behalf have been transferred by the Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 2) Order, 1951), to make rules with respect to the pensions payable to and in respect of persons changing pensionable service under local government superannuation schemes for other pensionable employments specified in the rules, and vice versa. Section 15 of the Act contains further enabling powers in that behalf.

These rules provide accordingly that—

(*a*) if a pensionable employee under a local government superannuation scheme transfers within a prescribed period (generally twelve months) to pensionable employment under a public or local authority in Northern Ireland, a transfer value of an appropriate amount shall be payable to the Northern Ireland authority out of the superannuation fund to which he was a contributor ; and

(*b*) if a pensionable employee of a Northern Ireland authority transfers within the prescribed period to pensionable employment under a local government superannuation scheme, and the Northern Ireland authority pay an appropriate transfer value the transferee is to be entitled to reckon his Northern Ireland service for the purposes of the local government superannuation scheme to which he has become subject.

In the case mentioned at (*a*) above, the Northern Ireland authorities have made the necessary provision for securing that the English pensionable service will be reckonable for pension purposes under the Northern Ireland pension scheme to which a person transferring to pensionable employment there becomes subject.

These rules thus make pensionable employments in the local government service interchangeable with pensionable employments in Northern Ireland under public and local authorities, with the preservation of superannuation rights in respect of previous pensionable service.

The rules are made retrospective in effect to a limited extent, under the express powers of section 2 of the Act of 1948, but, as thereby required, transferees and local authorities affected by the retrospective provisions of the rules are given an opportunity of electing that these provisions shall not apply.