Provided that nothing in this rule shall preclude the application of rule 12 of these rules to or in respect of a person who, having entered employment as a contributory employee or local Act contributor, retires from that employment, or dies, after the date of the coming into operation of these rules.

Dated this 18th day of December, 1958.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

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

These rules amend the Superannuation (Local Government and Northern Ireland) Interchange (Scotland) Rules, 1952, which provide for interchange of superannuation rights between pensionable local government employment in Scotland and similar employment in Northern Ireland. The amendments are, in the main, consequential on changes in local government superannuation law. They include, in respect of persons moving from employment in Scotland to employment in Northern Ireland, provisions as to the payment of transfer values, the giving of notice by the employee and the exercise by local authorites of certain discretionary powers (rules 5 and 6). In respect of persons moving from employment in Northern Ireland to employment in Scotland, the rules contain provisions with respect to the reckoning of service (rule 7), the continuation in the new employment of payments which the employee was making with a view to adding to, or enhancing the value of, his reckonable service (rule 8) and the ascertainment of the amount of contributions, should they become repayable, attributable to his employment in Northern Ireland (rule 11).

1958 No. 361

The Superannuation (Fire Brigade and other Local Government Service) Interchange (Amendment) Rules, 1958

Made - - - -	*6th March,* 1958
Laid before Parliament	*12th March,* 1958
Coming into Operation	*17th March,* 1958

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), and of all other powers enabling him in that behalf, hereby makes the following rules:—

1. These rules may be cited as the Superannuation (Fire Brigade and other Local Government Service) Interchange (Amendment) Rules, 1958, and shall come into operation on the 17th day of March, 1958.

(a) 11 & 12 Geo. 6. c. 33.

2.—(1) These rules shall be construed as one with the Superannuation (Fire Brigade and other Local Government Service) Interchange Rules, 1952(**a**), and those rules and these rules may be cited together as the Superannuation (Fire Brigade and other Local Government Service) Interchange Rules, 1952 and 1958.

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

"the principal rules" means the Superannuation (Fire Brigade and other Local Government Service) Interchange Rules, 1952; and

"rule" means rule contained in the principal rules.

(3) References in these rules and in the principal rules as amended by these rules to the provisions of any enactment, rules or regulations shall be construed, unless the context otherwise requires, as references to those provisions as amended, applied or re-enacted by any subsequent enactment, rules or regulations.

(4) References in the principal rules as amended by these rules to any benefit or benefits under the Act of 1937 shall, in relation to a person who is, or is deemed to be, a contributory employee, be deemed to include a reference to benefits under the Local Government Superannuation Act, 1953(**b**), a local Act or a scheme made in relation to a local Act.

(5) For the purposes of the principal rules as amended by these rules a justices' clerk shall be deemed to be in the employment of the magistrates' courts committee by whom he is, or, under the provisions of the Justices of the Peace Act, 1949(**c**), is deemed to have been, appointed and references to "employment" shall, in relation to any such person, be construed accordingly.

(6) The Interpretation Act, 1889(**d**), applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

3. In rule 1, in paragraph (2) thereof (which contains definitions of expressions used in the principal rules)—

(*a*) there shall be inserted the following definitions:—

"'the Act of 1953' means the Local Government Superannuation Act, 1953;

'added years' means any additional years of service reckonable by a person who is, or is deemed to be, a contributory employee or local Act contributor under regulation 12 of the benefits regulations, any corresponding provision of a local Act scheme or that regulation or any such provision aforesaid as applied by regulations made under the Third or Fourth Schedule to the Act of 1953, and includes any additional years of service which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become and are reckonable under or by virtue of rules made under section 2 of the Act or any other enactment;

'the benefits regulations' means the Local Government Superannuation (Benefits) Regulations, 1954(**e**);

'the transfer value regulations' means the Local Government Superannuation (Transfer Value) Regulations, 1954(**f**);

(**a**) S.I. 1952/936 (1952 II, p. 2363).
(**b**) 1 & 2 Eliz. 2. c. 25.
(**c**) 12, 13 & 14 Geo. 6. c. 101.
(**d**) 52 & 53 Vict. c. 63.
(**e**) S.I. 1954/1048 (1954 II, p. 1595).
(**f**) S.I. 1954/1212 (1954 II, p. 1723).

'voluntary contributions' means payments made voluntarily by a person who was, or was deemed to be, a contributory employee or local Act contributor for the purpose of securing benefits for his widow, children or other dependants and 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 of the kind referred to in subsections (3) and (4) of section 2 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 a 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;"

(*b*) for the definition of "national service" there shall be substituted the following definition:—

"'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(a), and includes any period immediately following the termination thereof during which (with the consent, in the case of a justices' clerk, of the authority by whom he was appointed, and in the case of any other person, of the authority or person by whom he was employed before undertaking that service) the person continues in similar service;"

4. In rule 2 (which provides for the payment of transfer values)—

(*a*) for the words "the regulations for the time being in force by virtue of section 29 of the Act of 1937" there shall be substituted the words "the transfer value regulations" and after the words "transferred by way of the transfer value" there shall be inserted the words "and the like particulars relating to the person's previous pensionable service shall be furnished to the authority by whom he is employed as a fireman and to the person as would have been given to the person if instead of entering employment as a fireman he had become a contributory employee";

(*b*) in proviso (*a*) after the words "a return of contributions" there shall be inserted the words "other than voluntary contributions" and for the words from "and undertakes to pay" to the end of the sub-paragraph there shall be substituted the words "and, if the date of his entry into employment as a fireman is on or after the tenth day of July, 1956 (being the date of the coming into operation of the Firemen's Pension Scheme Order, 1956(b)), furnishes the authority by whom he is employed as a fireman with particulars of any national service in which he has been engaged since he left his previous employment;";

(a) 14 & 15 Geo. 6. c. 65. (b) S.I. 1956/1022 (1956 I, p. 953).

(*c*) for proviso (*f*) there shall be substituted the following proviso:—

"(*f*) the transfer value payable under this rule shall be calculated as if—

(i) the words 'not being such service as is mentioned in proviso (*a*) to that subsection' had been omitted from paragraph (*a*) of the definition of 'service' in paragraph 1 of the first schedule to the transfer value regulations and

(ii) the reference in paragraph (*b*) of the said definition to paragraph (*a*) thereof were a reference to the said paragraph (*a*) as so amended,

and 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 paragraph (*c*) had been omitted from the definition of 'service' in paragraph 1 of the first schedule to the transfer value regulations; and";

(*d*) in proviso (*g*) for the words "the said Regulations, if those Regulations had become applicable to the officer" in both places where they occur there shall be substituted the words "the said regulation, if that regulation had become applicable to the officer" and for the words "the authority by whom he is employed as a fireman" there shall be substituted the words "the authority maintaining the fund to which he was a contributor as aforesaid".

5. For rule 3 (which enables a local authority or other employing body to exercise certain discretionary powers with a view to improving the pension rights of a pensionable employee who has left pensionable local government employment and entered employment as a fireman) there shall be substituted the following rule:—

"3.—(1) Where a person enters or has entered employment as a fireman after having ceased to be, or to be deemed to be, a contributory employee or local Act contributor 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 authority by whom he is employed as a fireman of his notification that he desires these rules to apply to him, exercise in relation to him any discretion which, with a view to increasing the benefits payable to him, it would have been open to them to exercise 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 his former employment.

(2) A decision made in the exercise of any discretion under the last preceding paragraph 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 paragraph (1) of this rule, the service reckonable, immediately before he left his 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 that person shall be calculated accordingly.

(a) 9 Edw. 7. c. 48.

(4) Any increase in service, if attributable to a decision under this rule to increase the benefits payable to the person otherwise than by any notional increase or extension of the service reckonable for the purpose of calculating those benefits, 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 or service for the purposes of the relevant local Act scheme in the manner in which non-contributing service is converted into contributing service under sub-section (4) of section 2 of the Act of 1953.

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

6.—(1) These rules shall apply—

(*a*) to any person who on or after the tenth day of July, 1956 and before the date of the coming into operation of these rules has entered employment as a fireman within a period of twelve months after the date on which he ceased to be employed in employment by virtue of which he was, or was deemed to be, a contributory employee or local Act contributor; and

(*b*) to any person who ceased to be employed in employment by virtue of which he was, or was deemed to be, a contributory employee or local Act contributor before the date of the coming into operation of these rules and who on or after that date and within a period of twelve months after the date on which he ceased to be employed in such employment as aforesaid enters employment as a fireman,

notwithstanding that the cessation of the employment by virtue of which he was, or was deemed to be, a contributory employee or local Act contributor was before the date of the making of these rules and that, in the case of a person to whom sub-paragraph (*a*) of this rule applies, the commencement of his employment as a fireman was also before the date of the making of these rules; and in relation to any person to whom sub-paragraph (*a*) of this rule applies the principal rules shall be deemed to have had effect as if these rules had come into operation immediately before he entered employment as a fireman:

Provided that—

(i) these rules shall not apply to any such person as aforesaid unless he and the local authority responsible for the payment of the transfer value in respect of him consent;

(ii) any resolution passed or discretion exercised under rule 3 of the principal rules before the date of the coming into operation of these rules in respect of a person to whom sub-paragraph (*a*) of this rule applies shall be deemed to have been passed or exercised in pursuance of the provision substituted by rule 5 of these rules for rule 3 of the principal rules;

(iii) in relation to a person to whom sub-paragraph (*a*) of this rule applies the provision substituted by rule 5 of these rules for rule 3 of the principal rules shall have effect as if the time limit for the exercise of any discretion therein referred to (other than a discretion previously

exercised and having effect under sub-paragraph (ii) of this proviso) were the period of three months therein referred to or a period of three months after the date of the coming into operation of these rules, whichever period shall last expire.

(2) Any transfer value paid before the date of the coming into operation of these rules in respect of a person to whom sub-paragraph (*a*) of paragraph (1) of this rule applies shall be adjusted to the extent, if any, necessary in consequence of the preceding provisions of this rule.

Given under the official seal of the Minister of Housing and Local Government this sixth day of March, nineteen hundred and fifty-eight.

(L.S.)

Henry Brooke,
Minister of Housing and Local Government.

EXPLANATORY NOTE

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

These rules amend the Superannuation (Fire Brigade and other Local Government Service) Interchange Rules, 1952, which make provision with respect to the pension rights of persons who leave pensionable employment under a local authority and enter employment in which they are pensionable under the Firemen's Pension Scheme. The amendments are, in the main, consequential on changes in local government superannuation law and include provisions with respect to the payment of transfer values and the exercise by local authorities of certain discretionary powers. Rule 6 gives the rules a limited retrospective operation under the authority of and subject to the safeguards provided by section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948.

1958 No. 539 (S. 24)

The Superannuation (Fire Brigade and other Local Government Service) Interchange (Scotland) Amendment Rules, 1958

Made - - - -	26*th March,* 1958
Laid before Parliament	2*nd April,* 1958
Coming into Operation	14*th April,* 1958

In exercise of the powers conferred on me by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), and of all other powers enabling me in that behalf, I hereby make the following rules:—

1. These rules may be cited as the Superannuation (Fire Brigade and other Local Government Service) Interchange (Scotland) Amendment Rules, 1958, and shall come into operation on the fourteenth day of April, 1958.

(a) 11 & 12 Geo. 6. c. 33.