1952 No. 936

The Superannuation (Fire Brigade and other Local Government Service) 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 (Fire Brigade and other Local Government Service) Interchange Rules, 1952, and shall come into operation on the sixteenth day of May, 1952.

(2) In these rules, the following expressions have the meanings hereby assigned to them :—

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

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

" fireman " means a member of a fire brigade of a class prescribed by the Firemen's Pension Scheme for the purposes of section 2 of the Fire Services Act, 1951(**c**) ;

" the Firemen's Pension Scheme " means the scheme for the time being in force under section 26 of the Fire Services Act, 1947(**d**) ;

" national service ", in relation to any person, means compulsory national service within the meaning of the Act, or any other service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(**e**), 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 national service continues in similar service ; and

" war service ", in relation to any person, means war service within the meaning of the Local Government Staffs (War Service) Act, 1939(**f**), 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.

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

(**a**) 11 & 12 Geo. 6. c. 33.
(**b**) 1 Edw. 8 & 1 Geo. 6. c. 68.
(**c**) 14 & 15 Geo. 6. c. 27.
(**d**) 10 & 11 Geo. 6. c. 41.
(**e**) 14 & 15 Geo. 6. c. 65.
(**f**) 2 & 3 Geo. 6. c. 94.
(**g**) 52 & 53 Vict. c. 63.

2. Subject as hereinafter provided, where a person enters or has entered before the date of the coming into operation of these rules employment as a fireman 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 authority by whom he is employed as a fireman in writing within three months after entering employment as such, or, if he entered such 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 out of the fund to which the person was a contributor to the fire authority as would have been payable under the regulations for the time being in force by virtue of section 29 of the Act of 1937 had the person become a contributory employee under another local authority, 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 the transfer value:

Provided that:—

(*a*) this rule shall not apply in relation to any person unless within three months after entering employment as a fireman, or, if he entered employment as a fireman before the date of the coming into operation of these rules, within six months after that date, he pays to the authority by whom he is employed as a fireman an amount equal to any sum paid to him by way of a return of contributions on ceasing to hold his former employment and undertakes to pay to them a sum equal to the balance of any liability outstanding immediately he entered employment as a fireman, under the provisions of proviso (ii) to paragraph (*b*) of subsection (2) of section 8 of the Act of 1937;

(*b*) this rule shall not apply in relation to any person who entered employment as a fireman 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 not ceased to be in employment as a fireman before the date of the coming into operation of these rules otherwise than on transfer from one fire brigade to another with the consent of the authority maintaining the brigade from which he transferred;

(*c*) this rule shall not apply in relation to any person who, immediately before he entered employment as a fireman, was a member of the National Fire Service and was pensionable in respect of that service by virtue of the Local Government Staffs (War Service) Act, 1939;

(*d*) the transfer value payable in respect of a person who entered employment as a fireman 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 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 of Housing and Local Government may in any particular case allow ;

(*f*) the transfer value payable under this rule 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(**a**), and as if there had been no reference in that definition to a person who had been an established officer or servant within the meaning of the Asylum Officers' Superannuation Act, 1909(**b**) (hereafter in this rule referred to as " the Act of 1909 ") ; and

(*g*) where the officer had before entering local government service 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 employed in local government service, have been liable to contribute to that allowance, that body or the appropriate authority in relation to that body (as defined in paragraph (15) of Regulation 56 of the National Health Service (Superannuation) Regulations, 1950(**c**)), shall make a payment to the authority maintaining the fund to which he was a contributor as aforesaid of an amount equal to the transfer value which that body or the appropriate authority would have been liable to pay to the Minister of Health under paragraph (4) of the said Regulations, if those Regulations had become applicable to the officer on the date when he entered employment as a fireman, and where that body would in such circumstances as aforesaid have had, in respect of any such contribution to a superannuation allowance as aforesaid, a right of contribution from any other body, that other body or the appropriate authority in relation to that other body (so defined as aforesaid) shall make a payment to the authority by whom he is employed as a fireman of an amount equal to the transfer value which that other body or the appropriate authority would have been liable to pay to the Minister of Health under paragraph (5) of the said Regulations, if those Regulations had become applicable to the officer on the date when he entered the employment of the fire authority as a fireman.

3.—(1) Where a person enters or has entered employment as a fireman 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 authority by whom he is employed as a fireman 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.

(a) S.R. & O. 1939/329; Rev. XVII, p. 847; 1939 II, p. 2604.
(b) 9 Edw. 7. c. 48. (c) S.I. 1950/497; 1950 I, p. 1327.

(2) Where a person enters or has entered the employment of a fire authority as a fireman 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 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 authority by whom he is employed as a fireman 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) 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.

(4) 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) or (2) 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. 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.

5. Where a person ceased to be employed as a fireman after the first day of April, 1948, and before the date of the coming into operation of these rules in order to enter employment by virtue of which he was or was deemed to be a contributory employee or local Act contributor, or 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, and he has continued in such employment without a break of more than twelve months at any one time, excluding any period of war service or national service, then, if the authority maintaining the fund to which he is a contributor receive from the authority by whom he was employed as a fireman a transfer value calculated in accordance with a method approved by the Minister of Housing and Local Government, he shall be entitled to reckon a period equal to the period of pensionable service he was entitled to reckon immediately before he ceased to be employed as a fireman increased by one-third

(1) for the purposes of the Act of 1937, as if it had been a period of contributing service, or

(2) for the purposes of a local Act scheme, as if it had been a period of service or contribution within the meaning of that scheme,

and his aggregate contributions, within the meaning of the Firemen's Pension Scheme, in respect of the said period of pensionable service shall be deemed to have been contributions in respect of contributing service for the purposes of the Act of 1937, or, as the case may be, in respect of service for the

purposes of the local Act scheme, made upon entering such employment as aforesaid to the superannuation fund to which he is a contributor:

Provided that—

(*a*) this rule shall not apply to any person who on ceasing to be employed as a fireman was granted an award other than a gratuity or award by way of return of contributions under the Firemen's Pension Scheme;

(*b*) this rule shall not apply to any person unless, within three months after the date of the coming into operation of these rules or, if he is not then at that date in such employment as aforesaid, within three months after the date on which he next enters such employment—

(i) he notifies the authority maintaining the superannuation fund to which he is a contributor that he desires these rules to apply to him;

(ii) he pays to that authority an amount equal to the amount of any gratuity or award by way of return of contributions made to him on ceasing to be employed as a fireman; and

(iii) he agrees to pay a sum equal to the amount of the balance of any sum he has undertaken to pay by regular instalments in accordance with the provisions of the Firemen's Pension Scheme, which was outstanding immediately before he ceased to be employed as a fireman, as though the said sum were payable in accordance with the regulations for the time being in force under proviso (ii) to subsection (2) of section 8 of the Act of 1937, or, where he is subject to a local Act scheme, in accordance with the provisions thereof.

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.*)

These rules provide that when a pensionable employee of a local authority becomes a pensionable fireman under the Firemen's Pension Scheme the local authority shall pay a transfer value out of the appropriate superannuation fund to the fire authority. The rules are made retrospective to a limited extent under the express powers of section 2 (5) of the Act of 1948.

The rules also provide for the reckoning of the service of persons who transferred from the fire service to employment in which they became subject to the Local Government Superannuation Act, 1937, or a local Act scheme before the date of the coming into operation of the rules. If the conditions mentioned in the rules are complied with, such persons will be entitled to reckon for the purposes of the Act of 1937 or the local Act scheme, the service which they had been entitled to reckon under the Firemen's Pension Scheme.