INTERCHANGE RULES

1955 No. 1494

The Superannuation (Local Government and National Health Service) Interchange Rules, 1955

Made - - - -	*26th September*, 1955
Laid before Parliament	*30th September*, 1955
Coming into Operation	*1st October*, 1955

The Minister of Housing and Local Government, in exercise of his powers under 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:—

PART I

GENERAL

Citation and commencement

1. These rules may be cited as the Superannuation (Local Government and National Health Service) Interchange Rules, 1955, and shall come into operation on the first day of October, 1955.

Interpretation

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

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

"the Act of 1909" means the Asylums Officers' Superannuation Act, 1909(b);

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

"the Act of 1946" means the National Health Service Act, 1946(d);

"the Act of 1953" means the Local Government Superannuation Act, 1953(e);

"the Acts of 1937 to 1953" means the Local Government Superannuation Acts, 1937 to 1953;

"added years" means—

(*a*) in relation to a contributory employee or local Act contributor, any additional years of service reckonable by him under regulation 12 of the benefits regulations, any corresponding provision of a local Act scheme or that regulation or any such provision as 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;

(a) 11 & 12 Geo. 6. c. 33. (b) 9 Edw. 7. c. 48. (c) 1 Edw. 8 & 1 Geo. 6. c. 68.
(d) 9 & 10 Geo. 6. c. 81. (e) 1 & 2 Eliz. 2. c. 25.

(*b*) in relation to an officer, any additional years of service of the nature of additional years of service referred to in paragraph (*a*) of this definition which have become reckonable under the Health Service Regulations;

"the benefits regulations" means the Local Government Superannuation (Benefits) Regulations, 1954(**a**), as amended by the Local Government Superannuation (Benefits) Amendment Regulations, 1955(**b**);

"contributory employee" has the same meaning as in the Act of 1937 and includes a person deemed to be a contributory employee and any reference to employment in or by virtue of which a person is or was a contributory employee shall be construed accordingly;

"designated employee" and "disqualifying break of service" have the same meanings as in the Act of 1937;

"employing authority" has the same meaning as in the Health Service Regulations;

"local Act contributor" has the same meaning as in the Act of 1937 and includes a person deemed to be a local Act contributor and any reference to employment in or by virtue of which a person is or was a local Act contributor shall be construed accordingly;

"the Health Service Regulations" means the National Health Service (Superannuation) Regulations, 1955(**c**);

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

"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(**d**), 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;

"officer" (except that it does not include a person to whom paragraph (2) of regulation 8 of the Health Service Regulations applies) has the same meaning as in the Health Service Regulations and includes a person to whom those regulations apply as if he were an officer of an employing authority;

"voluntary contributions" means—

(*a*) in relation to a person who has become an officer after leaving employment in which he was a contributory employee or local Act contributor, payments made voluntarily by him 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

(**a**) S.I. 1954/1048 (1954 II, p. 1595).
(**b**) S.I. 1955/1041 (p. 1825 below).
(**c**) S.I. 1955/1084 (1955 I, p. 1270).
(**d**) 14 & 15 Geo. 6. c. 65.

or, where the 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*) in relation to a person who has entered employment in which he is a contributory employee or local Act contributor after leaving employment in which he was an officer, any payments similar in character to any such payments as aforesaid for which, when he left the employment in which he was an officer, provision was made in the Health Service Regulations.

(2) References in 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.

(3) For the purposes of 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(**a**), is deemed to have been, appointed and references to "employment" shall, in relation to any such person, be construed accordingly.

(4) References in these rules to the Health Service Regulations, or to a specific provision of those regulations shall be construed, in the case of a person who ceased to be an officer before the first day of October, 1955, as references to the National Health Service (Superannuation) Regulations, 1950(**b**), as amended(**c**), or, as the case may be, as references to the corresponding provision of the last-mentioned regulations.

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

Definition of "the prescribed time limit"

3.—(1) Subject as hereinafter provided, "the prescribed time limit" means—

(*a*) in rule 4, a period of twelve months after leaving employment as a contributory employee or local Act contributor or, in the case of a person who immediately after leaving such employment became engaged in national service, a period of six months after the termination of that service;

(*b*) in rule 6, a period of twelve months after leaving employment as an officer or, in the case of a person who immediately after leaving such employment became engaged in national service, a period of six months after the termination of that service:

Provided that the reference in sub-paragraph (*a*) of this paragraph 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.

(**a**) 12, 13 & 14 Geo. 6. c. 101. (**b**) S.I. 1950/497 (1950 I, p. 1327).
(**c**) S.I. 1951/1161, 1952/1264 (1951 I, p. 1408; 1952 II, p. 2072). (**d**) 52 & 53 Vict. c. 63

(2) Subject as hereinafter provided, in the case of a person who in his new employment is an officer having been in his former employment a contributory employee or local Act contributor engaged in an employment mentioned in paragraph (4) of this rule, or who is a contributory employee or local Act contributor engaged in any such employment as is mentioned in that paragraph having in his former employment been an officer—

(*a*) in reckoning the said period of twelve months or, as the case may be, the said period of six months mentioned in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph no account shall be taken of any period spent by the person on a course of study or training which he entered after leaving his former employment;

(*b*) if the person left employment in which he was a contributory employee or local Act contributor or, as the case may be, an officer, in order to enter a course of study or training and on completion of that course became engaged in national service, he shall be deemed for the purposes of the last preceding paragraph to have left his former employment at the time when he completed the said course of study or training.

(3) The provisions of the last preceding paragraph shall not apply—

(*a*) to a person who in his new employment is an officer unless—

(i) before leaving his former employment (or, if between leaving that employment and entering the said course of study or training he was engaged in national service, before the end of that service) he gave notice in writing to the authority by whom he was employed of his intention to enter the said course of study or training;

(ii) he has not received, in pursuance of a claim made by him, a return of contributions from the fund to which he was a contributor in his former employment; and

(iii) the Minister of Health is satisfied that by reason of having undertaken the said course of study or training the person is better fitted for the duties of his new employment;

(*b*) to a person who in his new employment is a contributory employee or local Act contributor unless—

(i) the said course of study or training was approved by the Minister of Health on the person's written application made before or within three months after the commencement of the course; and

(ii) the authority employing him in his new employment are satisfied that by reason of having undertaken the said course of study or training he is better fitted for the duties of his new employment:

Provided that a person who, immediately after leaving employment as a contributory employee or local Act contributor, becomes engaged in national service and before the termination of that service gives notice of his intention to enter a course of study or training may, on giving such notice, pay to the authority maintaining the superannuation fund to which he was formerly a contributor an amount equal to any sums paid to him by way of return of contributions, in pursuance of a claim made by him, by that authority and, if he pays that amount, shall be deemed for the purposes of sub-paragraph (*a*) of this paragraph not to have claimed a return of contributions.

(4) The employments to which paragraph (2) of this rule refers are—

(*a*) employment as a person to whom regulation 21 or 23 of the benefits regulations applies or as a person to whom the said regulation 23

would have applied if she had given the notice referred to in subsection (2) of section 9 of the Act of 1953 (which relates to female members of staffs of children's homes and hostels);

(*b*) employment as a person to whom regulation 22 of the benefits regulations or a provision of a local Act scheme corresponding to the said regulation 23 applies or as a person to whom such a provision would have applied if she had given a notice corresponding to that referred to in subsection (2) of section 9 of the Act of 1953;

(*c*) in the case of a male person, employment in a children's home or hostel provided by a local authority under any enactment, other than an enactment relating to education, in which the person has the care of persons under the age of eighteen years.

PART II

TRANSFER FROM LOCAL GOVERNMENT TO NATIONAL HEALTH SERVICE

Transfer values payable to the Minister of Health

4.—(1) Where after ceasing to be employed in employment by virtue of which he was a contributory employee or local Act contributor a person becomes an officer within the prescribed time limit and without having become entitled to any benefit under the Acts of 1937 to 1953 or the local Act scheme to which he was subject, other than a return of contributions, then, if he notifies the employing authority in writing within three months after entering their employment that he desires these rules to apply to him and, if he ceased to hold his former employment before the date of the coming into operation of these rules, the authority maintaining the fund to which he was a contributor consent, the like transfer value shall be payable to the Minister of Health 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, 1954(**a**), 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, and the like particulars relating to the person's previous pensionable service shall be furnished to the Minister of Health and the person as would have been given to the person if instead of becoming an officer he had become a contributory employee:

Provided that—

(*a*) this rule shall not apply in relation to any person unless within three months after entering the employment of the employing authority, he furnishes them with particulars of any national service in which he has been engaged since he left his former employment and pays to them an amount equal to any sum paid to him by way of return of contributions other than voluntary contributions;

(*b*) 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 or any corresponding provision of a local Act scheme 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

(**a**) S.I. 1954/1212 (1954 II, p. 1723).

definition of "service" in paragraph 1 of the First Schedule to the Local Government Superannuation (Transfer Value) Regulations, 1954; 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;

(*c*) the transfer value payable in respect of a person who had been an established officer or servant within the meaning of the Act of 1909 shall be calculated as if paragraph (*c*) had been omitted from the definition of "service" aforesaid;

(*d*) the age which shall be taken into account for the purpose of calculating the transfer value under this rule in respect of a person to whom paragraph (2) of rule 3 of these rules applies, being a person who, since leaving his former employment and before entering his new employment has undergone a course of study or training, shall be his age at the date when he becomes employed as an officer.

(2) Where a transfer value is payable in respect of a person who before becoming a contributory employee or local Act contributor had been subject to the Act of 1909 and 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 as such contributory employee or local Act contributor, have been liable to contribute to that allowance, that body, or the appropriate authority in relation to that body shall pay to the authority maintaining the fund out of which the transfer value is payable a sum equal to the transfer value which that body or the appropriate authority aforesaid would have been liable to pay to the Minister of Health under paragraph (4) of regulation 56 of the National Health Service (Superannuation) Regulations, 1950, if that regulation had become applicable to the person on the date when he became an officer; 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 of contribution from any other body, that other body, or if that body has been dissolved or has ceased to exercise functions as such, the appropriate authority in relation to that other body shall pay to the authority maintaining the superannuation fund aforesaid 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 of Health under paragraph (5) of the said regulation 56 if that regulation had become applicable to the person when he became an officer.

In this paragraph "appropriate authority" in relation to a body has the same meaning as in paragraph (15) of the said regulation 56.

Exercise by local authority of discretionary powers to increase benefits

5.—(1) Where a person becomes an officer after having ceased 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 Minister of Health 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.

(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 a higher rate of benefit into years of contributing service or service for the purposes of the relevant local Act scheme in the manner in which fractions of remuneration are converted into years of contributing service under subsection (4) of section 2 of the Act of 1953.

(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) 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.

PART III

TRANSFER FROM NATIONAL HEALTH SERVICE TO LOCAL GOVERNMENT

Reckoning of previous service

6.—(1) Subject as hereinafter provided, where after leaving employment in which he was an officer a person becomes a contributory employee or local Act contributor within the prescribed time limit, then, if the authority maintaining the fund to which he is a contributor receive from the Minister of Health a transfer value calculated in accordance with regulation 83 of the Health Service Regulations, he shall be entitled to reckon all service which in calculating the said transfer value is, or is treated as if it were, contributing service or non-contributing service, in the same manner and to the like extent 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 as a contributory employee or local Act contributor 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 Health Service Regulations:

Provided that—

(*a*) this rule shall not apply to any person unless within three months after entering his new employment he gives notice in writing to 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 any national service in which he has been engaged since leaving his former employment and pays to them an amount equal to any sum paid to him by way of return of contributions,

other than voluntary contributions, on or after his ceasing to hold his former employment;

(*b*) where at the time when he left the employment in which he was an officer a person was in the course of making payments which were or were deemed to be payments under the Second Schedule to the Health Service Regulations, then, if on giving notice under paragraph (*a*) of this proviso that he desires these rules to apply to him, he pays to the authority maintaining the superannuation fund to which he is a contributor a sum equal to any sums which may have been returned to him in respect of such payments under regulation 35 of the Health Service Regulations on or after leaving the employment in which he was an officer—

(i) he shall be entitled, in continuation of those payments, to make payments, and

(ii) in respect of the service in respect of which the payments were being made, shall enjoy rights and be subject to liabilities,

as if in his previous employment he had been, instead of an officer to whom the Health Service Regulations applied, a contributory employee;

(*c*) where at the time when he left the employment in which he was an officer a person was in the course of making payments in respect of added years he shall be entitled, if, on giving notice under paragraph (*a*) of this proviso that he desires these rules to apply to him, he pays to the authority maintaining the superannuation fund to which he is a contributor in his new employment a sum equal to any sum paid to him by way of return of such payments as aforesaid on or after leaving the employment in which he was an officer, to pay the outstanding payments to that authority in the manner in which they would have been payable if he had remained in his employment as an officer, and in respect of the added years in respect of which those payments are made shall enjoy rights and be subject to liabilities as if those years were added years reckonable in his new employment under regulation 12 of the benefits regulations or, if in his new employment he is subject to a local Act scheme, under such provisions corresponding to the said regulation 12 or to regulation 5 of the Local Government Superannuation (Reckoning of Service on Transfer) Regulations, 1954(a), as are contained in that scheme.

(2) Where a person to whom paragraph (1) of this rule applies was in his employment as an officer a person to whom regulation 44 of the Health Service Regulations applied and is, in his new employment, a person to whom regulation 21 or 22 of the benefits regulations applies he shall (whether or not he continues to be a person to whom the said regulation 21 or 22 applies) have rights corresponding to those to which he would have been entitled if the said regulation 44 had continued to apply to him.

(3) Where a person to whom paragraph (1) of this rule applies was in his employment as an officer a person to whom sub-paragraph (*b*) of either paragraph (1) or paragraph (2) of regulation 51 of the Health Service Regulations applied, or a person to whom paragraph (4) or (5) of that regulation applied, and is in his new employment a person to whom regulation 21 or 22 of the benefits regulations applies, then, notwithstanding anything contained in paragraph (1) of this rule (but without prejudice to the application to him of this rule if he again enters employment by virtue of which he is a contributory employee or local Act contributor after leaving employment as an officer), the Acts of 1937 to 1953 or local Act scheme applicable

(a) S.I. 1954/1211 (1954 II, p. 1676).

to him in his new employment shall be modified so as to confer upon him rights corresponding to those conferred by the said sub-paragraph so long as he is such a person—

(*a*) without having had a break in employment of twelve months or more at any one time since leaving employment in which paragraph (1) of this rule last applied to him ; and

(*b*) without having entered, since the date on which paragraph (1) of this rule last applied to him, employment in which he was an officer.

Reckoning of national service

7. Where after leaving his former employment and before entering his new employment a person to whom rule 6 of these rules has become applicable had been engaged in national service the period of service which he becomes entitled to reckon under the said rule shall be treated as being increased to the extent (if any) to which the said period of national service would have been reckonable as service for the purposes of the Health Service Regulations, had the person again become an officer on the termination of such national service:

Provided that this rule shall not apply unless the transfer value received from the Minister of Health under rule 6 of these rules was calculated so as to include the liability of which the Minister of Health was relieved in respect of the said period of national service.

PART IV

MISCELLANEOUS PROVISIONS

Contributions not returnable to a person to whom rule 4 has become applicable

8. Notwithstanding anything in the Act of 1937 or any local Act scheme no payment shall be made thereunder by way of return of contributions, other than voluntary contributions, to any person in relation to whom rule 4 of these rules has become applicable.

Computation of contributions of a person to whom rule 6 applies

9.—(1) Where a person to whom rule 6 of these rules applies (not being a person to whom paragraph (3) of this rule applies) ceases to be employed as a contributory employee or local Act contributor, or dies, in circumstances in which under the relevant superannuation provision there is payable to or in respect of him an amount by way of return of contributions (with or without interest) or a benefit which falls to be calculated by reference to any such amount then, for the purpose of the relevant superannuation provision, the amount of his contributions shall be taken to include in respect of service which, by virtue of these rules, has become reckonable as service for the purposes of the Act of 1937 or the relevant local Act scheme an amount equal to the amount which would have been payable by way of return of contributions under the pension scheme applicable to him in his former employment, if, on his ceasing to hold that employment, he had been entitled to receive an amount by way of return of contributions without interest.

(2) Where under the relevant superannuation provision the amount payable by way of return of contributions or by way of benefit is a sum equal to, or which falls to be calculated by reference to, the amount of his contributions with compound interest thereon, compound interest shall also be payable in respect of the amount by which those contributions are increased under the last preceding paragraph, calculated—

(i) as respects the period ending immediately before the day on which he became a contributory employee or local Act contributor, at the rate at which it would have been calculated under the pension scheme

applicable to him in his former employment if on leaving that employment he had been entitled to a return of contributions together with compound interest thereon ; and

(ii) as respects the period beginning with the date on which he became a contributory employee or local Act contributor, in accordance with the provisions of section 10 of the Act of 1937 or, as the case may be, the corresponding provisions of the relevant local Act scheme.

(3) Where a person to whom rule 6 of these rules applies—

(*a*) ceases to be employed as a contributory employee or local Act contributor in the circumstances mentioned in subsection (1) of section 10 of the Act of 1937 ; or

(*b*) dies in the circumstances mentioned in subsection (3) of that section ; or

(*c*) ceases (by reason of permanent ill-health or infirmity of mind or body) to be employed as a contributory employee or local Act contributor, or dies, in circumstances in which there is payable to or in respect of him a benefit which falls to be calculated by reference to the amount of his contributions (with or without interest),

then, if (in consequence of his having exercised an option to retain rights corresponding with those previously enjoyed by him as an established civil servant) he was not required in his employment as an officer to pay contributions, he shall be deemed to have made to the appropriate superannuation fund, on becoming a contributory employee or local Act contributor, contributions in respect of service which, immediately before he left the employment in which he was an officer, was reckonable under the Health Service Regulations as contributing service (being service as a civil servant or service subsequent thereto as an officer) of an aggregate amount equal to three eightieths of the annual salary and emoluments of his office multiplied by the number of completed years of his said service.

(4) For the purposes of the last foregoing paragraph "the annual salary and emoluments of his office" means the average annual amount of the pensionable salary and emoluments of his office during the three years ending with the last day of his service as an officer or, where his service during that period is less than three years, the average annual amount of his pensionable salary and emoluments during the actual period of his service.

(5) Notwithstanding anything in the previous provisions of this rule, the sum by which contributions payable under the relevant superannuation provision are increased under paragraph (1) or (2) of this rule shall not include—

(*a*) any amount in respect of payments made voluntarily for the purpose of securing benefits for a widow, children or other dependants ; or

(*b*) any sum in respect of contributions which, on or after the person's ceasing to be employed as an officer were returned to and retained by him ; or

(*c*) any amount in respect of voluntary contributions which, being payments to which paragraph (*b*) or (*c*) of the proviso to paragraph (1) of rule 6 of these rules applied, have not been continued in pursuance of that rule.

Application of section 35 *of the Act of* 1937

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

Preservation of rights of designated employees under the Act of 1937

11. Where a person on being transferred under the Act of 1946 or, in consquence of the acquisition by the Minister of Health under section 58 of that Act of premises at which, or for the purpose of administering the services provided at which, he was employed at the date of acquisition, became an officer having immediately before becoming such officer been subject to the provisions of the Act of 1937 or a local Act scheme, then if—

(*a*) he would have been subject to the Act of 1937 as a designated employee had he become a contributory employee instead of an officer; and

(*b*) he becomes a contributory employee or local Act contributor to whom rule 6 of these rules is applicable; and

(*c*) immediately before leaving the employment in which he was an officer he was entitled, by virtue of an option having effect under the Health Service Regulations, to enjoy rights corresponding to the rights which he would have enjoyed if he had remained subject to the Act of 1937, the Acts of 1937 to 1953 or a local Act scheme,

he shall be deemed, for the purposes of sections 6 and 31 of the Act of 1937, not to have had a disqualifying break of service between the date on which he ceased to be employed in the said employment in which he was subject to the provisions of the Act of 1937 or a local Act scheme and the date on which he again becomes a contributory employee or local Act contributor.

Preservation of rights acquired under Part I of the Second Schedule to the Act of 1937

12. Where a person on being transferred under the Act of 1946, or in consequence of the acquisition by the Minister of Health under section 58 of that Act of premises at which, or for the purpose of administering the services provided at which, he was employed at the date of acquisition, became an officer having immediately before becoming such officer been entitled to rights under Part I of the Second Schedule to the Act of 1937 (which relates to transferred poor law employees and transferred rating employees) or to corresponding rights under a local Act scheme then, if—

(*a*) he becomes a contributory employee or local Act contributor to whom rule 6 of these rules is applicable; and

(*b*) immediately before leaving the employment in which he was an officer he was entitled, by virtue of an option having effect under the Health Service Regulations, to enjoy rights corresponding to the rights which he would have enjoyed if he had remained subject to the Act of 1937, the Acts of 1937 to 1953 or a local Act scheme,

he shall be deemed for the purposes of Part I of the Second Schedule to the Act of 1937 and of any corresponding provisions of the local Act scheme not to have had a disqualifying break of service between the date on which he ceased to be employed in the employment in which he was entitled as a contributory employee or local Act contributor to such rights as aforesaid and the date on which he again becomes a contributory employee or local Act contributor.

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

(L.S.)

Duncan Sandys,
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 contain provisions with respect to the superannuation rights of persons transferring between employment which is pensionable under regulations made under section 67 (1) of the National Health Service Act, 1946, and pensionable local government employment. The Rules replace (with amendments which, in the main, are consequential on changes in local government superannuation law) similar provisions of the National Health Service (Superannuation) Regulations, 1950. The latter regulations are revoked on 1st October, 1955 (which is also the date of coming into operation of these Rules) by the National Health Service (Superannuation) Regulations, 1955.

Part I of the Rules contains definitions of terms used in the Rules including a definition of "the prescribed time limit", which is the time within which movement from one pensionable employment to another must take place if the person concerned is not to lose the right to reckon in the second employment the service which was reckonable when he left the first employment. This limit is usually 12 months (or where the employee, immediately after leaving his first employment became engaged in national service, 6 months after completion of that service): but in the case of interchange between certain health service employments allowance may be made for time spent on a course of study or training if the local authority or the Minister of Health, as the case may be, is satisfied that by reason of having undertaken the course, the person is better fitted for the duties of his new employment.

Part II provides for the payment of transfer values by local authorities to the Minister of Health in respect of persons moving from pensionable local government employment to employment pensionable under the National Health Service (Superannuation) Regulations and, on any such movement taking place, enables the local authority concerned to exercise (with a view to increasing the benefits payable to or in respect of the employee on his death or retirement) certain discretionary powers. Exercise of any such discretionary powers will result in an appropriate adjustment in the transfer value payable to the Minister of Health.

Part III provides for the reckoning of previous service in the case of a person who enters pensionable local government employment after having been in employment pensionable under the National Health Service (Superannuation) Regulations.

Part IV contains miscellaneous provisions with respect to the return of contributions, the application of section 35 of the Local Government Superannuation Act, 1937 (which provides for decisions on questions and appeals to the Minister) and the preservation, on transfer from employment pensionable under the National Health Service (Superannuation) Regulations to pensionable local government employment, of rights previously enjoyed as a "designated" employee (an employee to whom before 1st April, 1939, the Local Government and Other Officers' Superannuation Act, 1922, applied) and of certain rights previously enjoyed under Part I of the Second Schedule to the Local Government Superannuation Act, 1937, by transferred poor law employees and transferred rating employees.

The Rules apply (under the authority of and subject to the safeguards required by section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948), in the case of a person who enters one employment after the date of coming into operation of the Rules having left his previous employment before that date, but are otherwise not retrospective.

1955 No. 1479 (S. 135)

The Superannuation (Local Government and National Health Service) Interchange (Scotland) Rules, 1955

Made - - - -	*22nd September*, 1955
Laid before Parliament	*30th September*, 1955
Coming into Operation	*1st October*, 1955

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:—

PART I

GENERAL

Citation and Commencement

1. These rules may be cited as the Superannuation (Local Government and National Health Service) Interchange (Scotland) Rules, 1955, and shall come into operation on the first day of October, 1955.

Interpretation

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

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

"the Act of 1909" means the Asylums Officers' Superannuation Act, 1909(b);

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

"the Act of 1947" means the National Health Service (Scotland) Act, 1947(d);

"the Act of 1953" means the Local Government Superannuation Act, 1953(e);

"the Acts of 1937 to 1953" means the Local Government Superannuation (Scotland) Acts, 1937 to 1953;

"added years" means—

(*a*) in relation to a contributory employee or local Act contributor, any person means any additional years of service reckonable by him under regulation 12 of the benefits regulations or any corresponding provision of a local Act scheme, 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;

(a) 11 & 12 Geo. 6. c. 33. (b) 9 Edw. 7. c. 48. (c) 1 Edw. 8 & 1 Geo. 6. c. 69.
(d) 10 & 11 Geo. 6. c. 27. (e) 1 & 2 Eliz. 2. c. 25.

(*b*) in relation to an officer, any additional years of service of the nature of additional years of service referred to in paragraph (*a*) of this definition which have become reckonable under the Health Service Regulations;

"the benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(**a**) as amended by the Local Government Superannuation (Benefits) (Scotland) Amendment Regulations, 1955(**b**);

"contributory employee" has the same meaning as in the Act of 1937 and includes a person deemed to be a contributory employee and any reference to employment in or by virtue of which a person is or was a contributory employee shall be construed accordingly;

"designated employee" and "disqualifying break of service" have the same meaning as in the Act of 1937;

"employing authority" has the same meaning as in the Health Service Regulations;

"local Act contributor" has the same meaning as in the Act of 1937 and includes a person deemed to be a local Act contributor and any reference to employment in or by virtue of which a person is or was a local Act contributor shall be construed accordingly;

"the Health Service Regulations" means the National Health Service (Superannuation) (Scotland) Regulations, 1955(**c**);

"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(**d**), 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;

"officer" (except that it does not include a person to whom paragraph (2) of regulation 9 of the Health Service Regulations applies) has the same meaning as in the Health Service Regulations and includes a person to whom those regulations apply as if he were an officer of an employing authority;

"voluntary contributions" means—

(*a*) in relation to a person who has become an officer after leaving employment in which he was a contributory employee or local Act contributor, payments made voluntarily by him 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 or reckoning any period of employment as service or as a period of contribution for the purposes of the scheme or, where the local Act scheme provides for the reckoning of non-contributing service, as contributing service for the purposes of the scheme;

(**a**) S.I. 1954/1059 (1954 II, p. 1632).
(**b**) S.I. 1955/1226 (p. 1831 below).
(**c**) S.I. 1955/1143 (1955 I, p. 1470).
(**d**) 14 & 15 Geo. 6. c. 65.

(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*) in relation to a person who has entered employment in which he is a contributory employee or local Act contributor after leaving employment in which he was an officer, any payments similar in character to any such payments as aforesaid for which, when he left the employment in which he was an officer, provision was made in the Health Service Regulations.

(2) References in 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.

(3) References in these rules to the Health Service Regulations, or to a specific provision of those regulations shall be construed, in the case of a person who ceased to be an officer before the first day of October, 1955, as references to the National Health Service (Scotland) (Superannuation) Regulations, 1950(**a**), as amended(**b**), or as the case may be, as references to the corresponding provision of the last-mentioned regulations.

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

3.—(1) Subject as hereinafter provided, ' the prescribed time limit ' means—

(*a*) in rule 4, a period of twelve months after leaving employment as a contributory employee or local Act contributor or, in the case of a person who immediately after leaving such employment became engaged in national service, a period of six months after the termination of that service ;

(*b*) in rule 6, a period of twelve months after leaving employment as an officer or, in the case of a person who immediately after leaving such employment became engaged in national service, a period of six months after the termination of that service :

Provided that the reference in sub-paragraph (*a*) of this paragraph 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 Secretary of State may, in any particular case, allow.

(2) Subject as hereinafter provided, in the case of a person who in his new employment is an officer having been in his former employment a contributory employee or local Act contributor engaged in an employment mentioned in paragraph (4) of this rule, or who is a contributory employee or local Act contributor engaged in any such employment as is mentioned in that paragraph having in his former employment been an officer—

(*a*) in reckoning the said period of twelve months or, as the case may be, the said period of six months mentioned in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph no account shall be taken of any period

(**a**) S.I. 1950/498 (1950 I, p. 1458).
(**b**) S.I. 1951/1147, 1952/1260 (1951 I, p. 1431; 1952 II, p. 2104).
(**c**) 52 & 53 Vict. c. 63.

spent by the person on a course of study or training which he entered after leaving his former employment;

(*b*) if the person left employment in which he was a contributory employee or local Act contributor or, as the case may be, an officer, in order to enter a course of study or training and on completion of that course became engaged in national service, he shall be deemed for the purposes of the last preceding paragraph to have left his former employment at the time when he completed the said course of study or training.

(3) The provisions of the last preceding paragraph shall not apply—

(*a*) to a person who in his new employment is an officer unless—

(i) before leaving his former employment (or, if between leaving that employment and entering the said course of study or training he was engaged in national service, before the end of that service) he gave notice in writing to the authority by whom he was employed of his intention to enter the said course of study or training;

(ii) he has not received, in pursuance of a claim made by him, a return of contributions from the fund to which he was a contributor in his former employment; and

(iii) the Secretary of State is satisfied that by reason of having undertaken the said course of study or training the person is better fitted for the duties of his new employment;

(*b*) to a person who in his new employment is a contributory employee or local Act contributor unless—

(i) the said course of study or training was approved by the Secretary of State on the person's written application made before or within three months after the commencement of the course; and

(ii) the authority employing him in his new employment are satisfied that by reason of having undertaken the said course of study or training he is better fitted for the duties of his new employment:

Provided that a person, who, immediately after leaving employment as a contributory employee or local Act contributor, becomes engaged in national service and before the termination of that service gives notice of his intention to enter a course of study or training may, on giving such notice, pay to the authority maintaining the superannuation fund to which he was formerly a contributor an amount equal to any sums paid to him by way of return of contributions, in pursuance of a claim made by him, by that authority and, if he pays that amount, shall be deemed for the purposes of sub-paragraph (*a*) of this paragraph not to have claimed a return of contributions.

(4) The employments to which paragraph (2) of this rule refers are—

(*a*) employment as a person to whom regulation 21 or 23 of the benefits regulations applies or as a person to whom the said regulation 23 would have applied if she had given the notice referred to in subsection (2) of section 9 of the Act of 1953 (which relates to female members of staffs of children's homes and hostels);

(*b*) employment as a person to whom regulation 22 of the benefits regulations or a provision of a local Act scheme corresponding to the said regulation 23 applies or as a person to whom such a provision would have applied if she had given a notice corresponding to that referred to in subsection (2) of section 9 of the Act of 1953;

(*c*) in the case of a male person, employment in a children's home or hostel provided by a local authority under any enactment, other than an enactment relating to education, in which the person has the care of persons under the age of eighteen years.

PART II

TRANSFER FROM LOCAL GOVERNMENT TO NATIONAL HEALTH SERVICE

Transfer values payable to the Secretary of State

4.—(1) Subject to the following provisions of these rules, where a person enters employment as an officer (in this Part of these rules referred to in relation to such a person as his "new employment") within the prescribed time limit after leaving employment in which he was a contributory employee or local Act contributor (in this Part of these rules referred to in relation to such a person as his "former employment"), and has not become entitled to any benefit, other than a return of contributions, under the Acts of 1937 to 1953 or, as the case may be, the local Act scheme to which he was subject, then—

(i) the like transfer value shall be payable to the Secretary of State out of the superannuation fund to which the person, when in his former employment, was a contributor by the authority maintaining that fund as would have been payable under the Local Government Superannuation (Transfer Value) (Scotland)) Regulations, 1954(**a**), had the person become a contributory employee, less an amount equal to any sum which the trustees of that fund may become liable to pay by way of income tax in respect of the amount transferred by way of transfer value; and

(ii) the like particulars relating to the person's previous pensionable service shall be furnished to the Secretary of State and the person as would have been given to the person if he had become a contributory employee instead of an officer.

(2) The foregoing paragraph shall not have effect in relation to any person unless within three months after entering his new employment he—

(*a*) gives notice in writing to the employing authority that he desires this Part of these rules to apply to him;

(*b*) furnishes the employing authority with particulars in writing of any national service in which he has been engaged since leaving his former employment; and

(*c*) pays to the employing authority an amount equal to any sum received by him on or after leaving his former employment by way of return of contributions, other than voluntary contributions.

(3) Paragraph (1) of this rule shall not apply in relation to any person who left his former employment before the date on which these rules come into operation except with the consent of the authority maintaining the superannuation fund to which, when in that employment, he was a contributor.

(4) The transfer value payable in respect of a person who was entitled to reckon any service by virtue of section 15 of the Act of 1937 or any corresponding provision of a local Act scheme shall be calculated as if—

(i) the words "not being such service as is mentioned in proviso (*a*) to that section" had been omitted from paragraph (*a*) of the definition of "service" in paragraph 1 of the First Schedule to the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1954; and

(a) S.I. 1954/1256 (1954 II, p. 1736).

(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.

(5) The transfer value payable in respect of a person who had been an established officer or servant within the meaning of the Act of 1909 shall be calculated as if paragraph (*c*) had been omitted from the definition of "service" aforesaid.

(6) The age which shall be taken into account for the purpose of calculating the transfer value under this rule in respect of a person to whom paragraph (2) of rule 3 of these rules applies, being a person who, since leaving his former employment and before entering his new employment has undergone a course of study or training, shall be his age at the date when he becomes employed as an officer.

(7) Where a transfer value is payable in respect of a person who before becoming a contributory employee or local Act contributor had been subject to the Act of 1909 and 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 as such contributory employee or local Act contributor, have been liable to contribute to that allowance, that body, or the appropriate authority in relation to that body shall pay to the authority maintaining the superannuation fund out of which the transfer value is payable a sum equal to the transfer value which that body or the appropriate authority aforesaid would have been liable to pay to the Secretary of State under paragraph (4) of regulation 52 of the National Health Service (Scotland) (Superannuation) Regulations, 1950, if that regulation had become applicable to the person on the date when he became an officer; 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 of contribution from any other body, that other body, or if that body has been dissolved or has ceased to exercise functions as such, the appropriate authority in relation to that other body shall pay to the authority maintaining the superannuation fund aforesaid an amount equal to the transfer value which that other body or the appropriate authority aforesaid would have been liable to pay to the Secretary of State under paragraph (5) of the said regulation 52 if that regulation had become applicable to the person when he became an officer.

In this paragraph "appropriate authority" in relation to a body has the same meaning as in paragraph (15) of the said regulation 52.

Exercise by local authority of discretionary powers to increase benefits

5.—(1) In the case of any person in relation to whom paragraph (1) of the last foregoing rule has effect, the authority or body by whom the person was employed in his former employment may, within three months after the date on which they are informed by the Secretary of State that the person has given the notice referred to in sub-paragraph (*a*) of paragraph (2) of the said rule, 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 former 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.

(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 a higher rate of benefit into years of contributing service in the manner in which fractions of remuneration are converted into years of contributing service or service for the purpose of the relevant local Act scheme under subsection (4) of section 2 of the Act of 1953.

(5) Where the amount of any transfer value payable under the last foregoing rule 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 in the superannuation fund out of which the transfer value is payable.

PART III

TRANSFER FROM NATIONAL HEALTH SERVICE TO LOCAL GOVERNMENT

Reckoning of previous service

6.—(1) Subject to the following provisions of these rules, where a person enters employment by virtue of which he is a contributory employee or local Act contributor (in this Part of these rules referred to in relation to such a person as his "new employment") within the prescribed time limit after leaving employment as an officer (in this Part of these rules referred to in relation to such a person as his "former employment"), and the authority maintaining the superannuation fund to which he is a contributor receive from the Secretary of State a transfer value calculated in accordance with regulation 80 of the Health Service Regulations, the person shall be entitled—

(i) to reckon all service which in calculating the said transfer value is, or is treated as if it were, contributing service or non-contributing service, in the same manner and to the like extent as if it had been contributing service or non-contributing service within the meaning of the Act of 1937; and

(ii) to reckon for the purpose of determining whether any benefit is payable to or in respect of him as a contributory employee or local Act contributor 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 Health Service Regulations.

(2) The foregoing paragraph shall not have effect in relation to any person unless within three months after entering his new employment he—

(*a*) gives notice in writing to the authority maintaining the superannuation fund to which he is a contributor that he desires this Part of these rules to apply to him;

(*b*) furnishes the said authority with particulars in writing of any national service in which he has been engaged since leaving his former employment; and

(*c*) pays to the said authority an amount equal to any sum received by him on or after leaving his former employment by way of return of contributions, other than voluntary contributions.

7. If a person to whom paragraph (1) of the last foregoing rule has effect—

(*a*) was, at the time when he left his former employment, in the course of making payments which were, or were deemed to be, payments under the Second Schedule to the Health Service Regulations, and

(*b*) on giving the notice referred to in sub-paragraph (*a*) of paragraph (2) of the last foregoing rule, pays to the authority maintaining the superannuation fund to which he is a contributor in his new employment a sum equal to any sum which may have been returned to him in respect of the payments referred to in the foregoing sub-paragraph on or after leaving his former employment under regulation 35 of the Health Service Regulations,

he shall be entitled, in continuation of those payments, to make payments and, in respect of the service in respect of which the payments were being made, shall enjoy rights and be subject to liabilities as if in his former employment he had been a contributory employee instead of an officer to whom the Health Service Regulations applied.

8. If a person in relation to whom paragraph (1) of rule 6 of these rules has effect—

(*a*) was, at the time when he left his former employment, in the course of making payments in respect of added years, and

(*b*) on giving the notice referred to in sub-paragraph (*a*) of paragraph (2) of rule 6 of these rules, pays to the authority maintaining the superannuation fund to which he is a contributor in his new employment a sum equal to any sum received by him on or after leaving his former employment by way of return of such payments as aforesaid,

he shall be entitled to pay the outstanding payments to that authority in the manner in which they would have been payable if he had remained in his former employment, and, in respect of the added years in respect of which those payments are made, shall enjoy rights and be subject to liabilities as if those years were added years reckonable in his new employment under regulation 12 of the benefits regulations, or, if in his new employment he is subject to a local Act scheme, under such provisions corresponding to the said regulation 12 or to regulation 5 of the Local Government Superannuation (Reckoning of Service on Transfer) (Scotland) Regulations, 1954(**a**), as are contained in that scheme.

9. Where a person in relation to whom paragraph (1) of rule 6 of these rules has effect was in his former employment a person to whom regulation 44 of the Health Service Regulations applied and is, in his new employment, a person to whom regulation 21 or 22 of the benefits regulations applies he shall (whether or not he continues to be a person to whom the said regulation 21 or 22 applies) have rights corresponding to those to which he would have been entitled if the said regulation 44 had continued to apply to him.

(**a**) S.I. 1954/1241 (1954 II, p. 1680).

10. Where a person in relation to whom paragraph (1) of rule 6 of these rules has effect was in his former employment a person to whom sub-paragraph (*b*) of either paragraph (1) or paragraph (2) of regulation 7 of the Health Service Regulations applied, or a person to whom paragraph (4) or paragraph (5) of that regulation applied, and is in his new employment a person to whom regulation 21 or 22 of the benefits regulations applies, then, notwithstanding anything contained in paragraph (1) of rule 6 of these rules (but without prejudice to the application to him of that paragraph if he again enters employment by virtue of which he is a contributory employee or local Act contributor after leaving employment as an officer), the Acts of 1937 to 1953 or local Act scheme applicable to him in his new employment shall be modified so as to confer upon him rights corresponding to those conferred by the said sub-paragraph so long as he is such a person—

(*a*) without having had a break in employment of twelve months or more at any one time since leaving employment in which paragraph (1) of this rule last applied to him; and

(*b*) without having entered, since the date on which paragraph (1) of rule 6 of these rules last applied to him, employment in which he was an officer.

Reckoning of national service

11. Where, after leaving his former employment and before entering his new employment, a person in relation to whom paragraph (1) of rule 6 of these rules has effect had been engaged in national service the period of service which he becomes entitled to reckon under the said paragraph shall be treated as being increased to the extent (if any) to which the said period of national service would have been reckonable as service for the purposes of the Health Service Regulations, had the person again become an officer on the termination of such national service:

Provided that this rule shall not apply unless the transfer value received from the Secretary of State under rule 6 of these rules was calculated so as to include the liability of which the Secretary of State was relieved in respect of the said period of national service.

PART IV

MISCELLANEOUS PROVISIONS

Contributions not returnable to a person to whom rule 4 has become applicable

12. Notwithstanding anything in the Act of 1937 or any local Act scheme no payment shall be made thereunder by way of return of contributions, other than voluntary contributions, to any person in relation to whom paragraph (1) of rule 4 of these rules has had effect.

Computation of contributions returnable to a person to whom rule 6 applies

13.—(1) Where a person in relation to whom paragraph (1) of rule 6 of these rules has effect (not being a person to whom paragraph (3) of this rule applies) ceases to be employed as a contributory employee or local Act contributor, or dies, in circumstances in which under the relevant superannuation provision there is payable to or in respect of him an amount by way of return of contributions (with or without interest) or a benefit

which falls to be calculated by reference to any such amount then, for the purpose of the relevant superannuation provision, the amount of his contributions shall be taken to include in respect of service which, by virtue of these rules, has become reckonable as service for the purposes of the Act of 1937 or the relevant local Act scheme an amount equal to the amount which would have been payable by way of return of contributions under the pension scheme applicable to him in his former employment, if, on his ceasing to hold that employment, he had been entitled to receive an amount by way of return of contributions without interest.

(2) Where under the relevant superannuation provision the amount payable by way of return of contributions or by way of benefit is a sum equal to, or which falls to be calculated by reference to, the amount of his contributions with compound interest thereon, compound interest shall also be payable in respect of the amount by which those contributions are increased under the last foregoing paragraph, calculated—

(i) as respects the period ending immediately before the day on which he became a contributory employee or local Act contributor, at the rate at which it would have been calculated under the pension scheme applicable to him in his former employment if on leaving that employment he had been entitled to a return of contributions together with compound interest thereon; and

(ii) as respects the period beginning with the date on which he became a contributory employee or local Act contributor, in accordance with the provisions of section 10 of the Act of 1937 or, as the case may be, the corresponding provisions of the relevant local Act scheme.

(3) Where a person in relation to whom paragraph (1) of rule 6 of these rules has effect—

(*a*) ceases to be employed as a contributory employee or local Act contributor in the circumstances mentioned in subsection (1) of section 10 of the Act of 1937; or

(*b*) dies in the circumstances mentioned in subsection (3) of that section; or

(*c*) ceases to be employed as a contributory employee or local Act contributor, or dies, in circumstances in which there is payable to or in respect of him a benefit which falls to be calculated by reference to the amount of his contributions (with or without interest),

then, if (in consequence of his having exercised an option to retain rights corresponding with those previously enjoyed by him as an established civil servant) he was not required in his employment as an officer to pay contributions, he shall be deemed to have made to the appropriate superannuation fund, on becoming a contributory employee or local Act contributor, contributions in respect of service which, immediately before he left the employment in which he was an officer, was reckonable under the Health Service Regulations as contributing service (being service as a civil servant or service subsequent thereto as an officer) of an aggregate amount equal to three eightieths of the annual salary and emoluments of his office multiplied by the number of completed years of his said service.

(4) For the purposes of the last foregoing paragraph "the annual salary and emoluments of his office" means the average annual amount of the pensionable salary and emoluments of his office during the three years ending with the last day of his service as an officer or, where his service

during that period is less than three years, the average annual amount of his pensionable salary and emoluments during the actual period of his service.

(5) Notwithstanding anything in the previous provisions of this rule, the sum by which contributions payable under the relevant superannuation provisions are increased under paragraph (1) or (2) of this rule shall not include—

(*a*) any amount in respect of payments made voluntarily for the purpose of securing benefits for a widow, children or other dependants; or

(*b*) any sum in respect of contributions which, on or after the person's ceasing to be employed as an officer were returned to and retained by him; or

(*c*) any amount in respect of voluntary contributions which, being payments to which rules 7 or 8 of these rules applied, have not been continued in pursuance of these rules.

Application of section 30 *of the Act of* 1937

14. The provisions of section 30 of the Act of 1937 shall have effect in relation to a person who becomes a contributory employee in circumstances in which these rules apply as if the reference in the said section to regulations made under that Act included a reference to these rules.

Preservation of rights of designated employees under the Act of 1937

15. Where a person on being transferred under the Act of 1947 or, in consequence of the acquisition of premises by the Secretary of State either by purchase under section 57 of that Act or in any other manner, became an officer having immediately before becoming such officer been subject to the provisions of the Act of 1937 or a local Act scheme, then, if—

(*a*) he would have been subject to the Act of 1937 as a designated employee had he become a contributory employee instead of an officer; and

(*b*) he becomes a contributory employee or local Act contributor to whom rule 6 of these rules is applicable; and

(*c*) immediately before leaving the employment in which he was an officer he was entitled, by virtue of an option having effect under the Health Service Regulations, to enjoy rights corresponding to the rights which he would have enjoyed if he had remained subject to the Act of 1937, the Acts of 1937 to 1953 or a local Act scheme,

he shall be deemed, for the purposes of sections 6 and 26 of the Act of 1937, not to have had a disqualifying break of service between the date on which he ceased to be employed in the said employment in which he was subject to the provisions of the Act of 1937 or a local Act scheme and the date on which he again becomes a contributory employee or local Act contributor.

Dated this 22nd day of September, Nineteen hundred and fifty-five.

James Stuart,
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 contain provisions with respect to the superannuation rights of persons transferring between employment which is pensionable under regulations made under section 66 (1) of the National Health Service (Scotland) Act, 1947 and pensionable local government employment. The Rules replace (with amendments which, in the main, are consequential on changes in local government superannuation law) similar provisions of the National Health Service (Scotland) (Superannuation) Regulations, 1950. The latter regulations are revoked on 1st October, 1955 (which is also the date of coming into operation of these Rules) by the National Health Service (Superannuation) (Scotland) Regulations, 1955.

Part I of the Rules contains definitions of terms used in the Rules including a definition of " the prescribed time limit ", which is the time within which movement from one pensionable employment to another must take place if the person concerned is not to lose the right to reckon in the second employment the service which was reckonable when he left the first employment. This limit is usually 12 months (or where the employee, immediately after leaving his first employment became engaged in national service, 6 months after completion of that service): but in the case of interchange between certain health service employments allowance may be made for time spent on a course of study or training if the local authority or the Secretary of State, as the case may be, is satisfied that by reason of having undertaken the course, the person is better fitted for the duties of his new employment.

Part II provides for the payment of transfer values by local authorities to the Secretary of State in respect of persons moving from pensionable local government employment to employment pensionable under the National Health Service (Superannuation) (Scotland) Regulations and, on any such movement taking place, enables the local authority concerned to exercise (with a view to increasing the benefits payable to or in respect of the employee on his death or retirement) certain discretionary powers. Exercise of any such discretionary powers will result in an appropriate adjustment in the transfer value payable to the Secretary of State.

Part III provides for the reckoning of previous service in the case of a person who enters pensionable local government employment after having been in employment pensionable under the National Health Service (Superannuation) (Scotland) Regulations.

Part IV contains miscellaneous provisions with respect to the return of contributions, the application of section 30 of the Local Government Superannuation (Scotland) Act, 1937 (which provides for decisions on questions and appeals to the Secretary of State) and the preservation, on transfer from employment pensionable under the National Health Service (Superannuation) (Scotland) Regulations to pensionable local government employment, of rights previously enjoyed as a " designated " employee (an employee to whom before 16th May, 1939, the Local Government and Other Officers' Superannuation Act, 1922, applied).

The Rules apply (under the authority of and subject to the safeguards required by section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948) in the case of a person who enters one employment after the date of coming into operation of the Rules having left his previous employment before that date, but are otherwise not retrospective.