service, including "added years" (defined in Rule 3 (1)) and the continuation in the new employment of certain voluntary payments which in his former employment the employee was making with a view to adding to, or enhancing the value of, reckonable service (Rules 6 and 7).

The Rules also contain provisions with respect to the amount of contributions reckonable in respect of his former employment by an employee who has transferred to local government employment (Rule 9). Rule 11 enables a former local government employee to resume, in prescribed circumstances, 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) or as a transferred poor law employee or transferred rating employee. This Rule and, to a limited extent, Rule 12 (which admits to the advantages of the Rules certain persons who though not officers of a public board have left, or entered, employment which is pensionable under the board's pension scheme), are given retrospective effect under the authority of and subject to the safeguards provided by section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948.

There are other minor and consequential amendments.

1955 No. 1660 (S. 139)

The Superannuation (Local Government and Public Boards) Interchange (Scotland) Amendment Rules, 1955

Made - - - -	*29th October*, 1955
Laid before Parliament	*5th November*, 1955
Coming into Operation	*8th November*, 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:—

1. These rules may be cited as the Superannuation (Local Government and Public Boards) Interchange (Scotland) Amendment Rules, 1955, and shall come into operation on the eighth day of November, 1955.

2.—(1) These rules and the Superannuation (Local Government and Public Boards) (Scotland) Interchange Rules, 1949(**b**), shall be construed as one and may be cited together as the Superannuation (Local Government and Public Boards) Interchange (Scotland) Rules, 1949 and 1955.

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

"the principal rules" means the Superannuation (Local Government and Public Boards) (Scotland) Interchange Rules, 1949; and

"rule" means rule contained in the principal rules.

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

(**a**) 11 & 12 Geo. 6. c. 33. (**b**) S.I. 1949/2252 (1949 I, p. 3082).

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

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

3.—(1) In rule 1, in paragraph (2) thereof—

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

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

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

"added years" means—

(*a*) in relation to a person who is or is deemed to be a contributory employee or local Act contributor, 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;

(*b*) in relation to a pensionable employee of a public board, any additional years of service of the nature of additional years of service referred to in paragraph (*a*) of this definition which have been granted in, or have otherwise become reckonable in, his employment under the public board;

"the benefits regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(d);

"voluntary contributions" means—

(*a*) in relation to a person who has become a pensionable employee of a public board after leaving employment in which he was or was deemed to be 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 or, where the local Act scheme provides for reckoning of non-contributing service, as contributing service for the purposes of the scheme;

(a) 1 & 2 Eliz. 2. c. 25. (b) 52 & 53 Vict. c. 63. (c) 9 Edw. 7. c. 48.
(d) S.I. 1954/1059 (1954 II, p. 1632).

(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 or is deemed to be a contributory employee or local Act contributor after leaving employment in which he was a pensionable employee of a public board, any payments similar in character to any such payments as aforesaid for which provision was made in the pension scheme administered by a public board;

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

"national service" in relation to any person means service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(**a**), and includes any period immediately following the termination thereof during which the person, with the consent of the authority or body by whom he was employed before undertaking that service, continues in similar service;

(c) in the definition of "public board" for the words "the British Electricity Authority" there shall be substituted the words "the Central Electricity Authority".

(2) In rule 1 there shall be inserted the following paragraph:—

"(2A) Unless the context otherwise requires, references in these rules to pensionable employees of a public board include references to persons who are employed in employment by virtue of which they are entitled to participate in the pension scheme administered by a public board and references to employment by a public board and similar references shall be construed accordingly."

4. In rule 2—

(*a*) in paragraph (3) for the words "the regulations for the time being in force by virtue of section twenty-four of the Act of 1937" there shall be substituted the words "the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1954(**b**)" and after the words "transferred by way of transfer value" there shall be inserted the words "and the like particulars relating to the person's previous pensionable service shall be furnished to the public board and the person as would have been given to the person if instead of becoming a pensionable employee of a public board he had become a contributory employee";

(*b*) in paragraph (4) for the words "his previous pensionable employment and war service or national service (if any)" there shall be substituted the words "any national service in which he has been engaged since he left his previous employment" and after the words "return of contributions" there shall be inserted the words "other than voluntary contributions";

(*c*) in paragraph (8) for the words "shall be calculated by reference to his age at that date" there there shall be substituted the words "shall, if by reason of designation of a public board under these rules, that date is in relation to that board a date after the seventh day of November,

(a) 14 & 15 Geo. 6. c. 65. (b) S.I. 1954/1256 (1954 II, p. 1736).

1955, be calculated by reference to his age at the date of designation if he ceased to be or to be deemed to be a contributory employee or local Act contributor more than twelve months before the date of designation";

(*d*) after paragraph (8) there shall be added the following two paragraphs:—

"(9) 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' in paragraph 1 of the First Schedule to the Local Government Superannuation (Transfer of Value) (Scotland) Regulations, 1954.

(10) Where a transfer value is payable in respect of a person who before becoming a contributor to a superannuation fund maintained by a local authority under the Act of 1937 or a local Act scheme had been 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 subject to the Act of 1937 or the local Act scheme, have been liable to contribute to that allowance, that body or the appropriate authority in relation to that body 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 Secretary of State under paragraph (4) of regulation 52 of the National Health Service (Scotland) (Superannuation) Regulations, 1950(a) if that regulation had become applicable to the person on the day when he became a pensionable employee of a public board; 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 other 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 a pensionable employee of the public board.

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

5. For rule 3 there shall be substituted the following rule:—

"3.—(1) Where a person becomes or has become a pensionable employee of a public board after having ceased to be or to be deemed to be a contributory employee or local Act contributor and these rules have become applicable in relation to him, the authority or body by whom he was employed may, within three months after the date on which they are informed by the public board 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

(a) S.I. 1950/498 (1950 I, p. 1458).

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 foregoing 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 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 to the superannuation fund out of which the transfer value is payable."

6. In rule 4—

(*a*) for the words " he shall be entitled to reckon that service as contributing service or service for the purposes of the local Act scheme, as the case may be " there shall be substituted the words " he shall be entitled, subject to the provisions of rule 5 of these rules to reckon that service as contributing service or service for the purposes of the local Act scheme, as the case may be, in the like manner and to the like extent; and he shall also be entitled to reckon for the purposes 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 said pension scheme ";

(*b*) in proviso (*a*) for the words " his previous pensionable employment and national service (if any)" there shall be substituted the words " any national service in which he has been engaged since he left his previous employment " and for the words " not being contributions made voluntarily for the purpose of securing benefits for his widow, children or other dependants " there shall be substituted the words " other than voluntary contributions ";

(*c*) for provisos (*c*) and (*d*) there shall be substituted the following:—

" (*c*) if any part of the service which (but for this proviso) he would become entitled to reckon as contributing service or service for the

purpose of the local Act scheme, as the case may be, by virtue of the foregoing provisions of this rule is attributable to service which before he became a pensionable employee of the public board was non-contributing service under the Act of 1937 or under a local Act scheme that service shall be reckonable in his new employment in the manner and to the extent to which it would have been reckonable if in his employment as a pensionable employee of the public board he had been a contributory employee."

7. For rule 5 there shall be substituted the following rule:—

"5.—(1) Where any person to whom the last foregoing rule has become applicable was, at the time when he ceased to be employed by the public board, in the course of making payments (other than those to which paragraph (2) of this rule applies) by way of—

(*a*) instalments in discharge of a fixed sum; or

(*b*) contributions of a fraction or percentage of emoluments additional to the percentage payable in respect of current service,

as a condition of being entitled to reckon the service in relation to which those payments were being made as a period of service for the purposes of the pension scheme administered by the public board, or as a condition of increasing the length at which the said service would be reckonable for the purpose of calculating a benefit under the said pension scheme, he shall be entitled, if he repays forthwith 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 on or after ceasing to be employed as a pensionable employee of the public board, to make payments and, in respect of the service in respect of which the payments were being made, to enjoy rights and be subject to liabilities, as if in his previous employment he had been, instead of a pensionable employee of a public board, a local Act contributor.

(2) Where any person to whom the last foregoing rule has become applicable was in the course of making payments in respect of added years he shall be entitled, if he repays forthwith 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 ceasing to be employed as a pensionable employee of a public board, to pay the outstanding payments in the manner in which they would have been payable if he had remained in his employment as a pensionable employee of a public board 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 in respect of which payments are being made 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."

8. In rule 7, after the words "by way of a return of contributions" there shall be inserted the words "other than voluntary contributions".

9. For rule 8 there shall be substituted the following rules:—

"8.—(1) Where a person to whom rule 4 of these rules applies (not being a person to whom paragraph (3) of this rule applies) leaves employ-

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

ment in which he is or is deemed to be 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, or was deemed to become, 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 or was deemed to become 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 4 of these rules applies—

(*a*) leaves employment in which he is or is deemed to be 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*) leaves (by reason of permanent ill-health or infirmity of mind or body) employment in which he is, or is deemed to be, 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 the pension scheme applicable to him in his former employment did not require the payment of contributions by employees participating in that scheme he shall be deemed to have made to the appropriate superannuation fund, on becoming, or being deemed to become, a contributory employee or local Act contributor, contributions in respect of service which immediately before he left his former employment was reckonable under the said scheme (being service as a pensionable employee of a public board and any previous service as a civil servant) 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 a pensionable employee of the public board, 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 a pensionable employee of a public board were returned to and retained by him; or

(*c*) any amount in respect of voluntary contributions which, being payments to which paragraph (1) or (2) of rule 5 of these rules applied, have not been continued in pursuance of that rule."

10. In rule 9—

(*a*) in paragraph (*a*) thereof, after the words "the National Insurance Act, 1946", there shall be inserted the words "and the provisions of any other regulations or any scheme replacing wholly or in part the provisions of the first mentioned regulations";

(*b*) in sub-paragraphs (i) and (ii) of paragraph (*b*) thereof, for the words "the said regulations" there shall be substituted the words "any such regulations or scheme as aforesaid applicable to him in his new employment" and in the said sub-paragraph (i) for the words "contributing service or service for the purposes of the local Act scheme, as the case may be," there shall be substituted the word "service".

11.—(1) The principal rules shall have effect, and shall be deemed always to have had effect as if there were included therein:—

(*a*) in paragraph (2) of rule 1 the following definitions:—

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

(*b*) after rule 11 the following rule:—

"12. Where any person to whom rule 4 of these rules has become applicable—

(*a*) entered the employment in which he was a pensionable employee of the public board in such circumstances that, had that employment and any previous employment held by him as a pensionable employee of the public board been employment as a contributory employee under a local authority, he would have had the rights of a designated employee who, without disqualifying break of service, is a contributory employee; and

(*b*) was afforded, and throughout the employment in which he was a pensionable employee of the public board continued to enjoy, rights corresponding to those to which he would have been entitled

had the Act of 1937 or, as the case may be, the local Act scheme to which he was formerly subject been applicable to him in that employment,

then, for the purposes of sections 6 and 26 of the Act of 1937, he shall be deemed not to have had a disqualifying break of service between the date on which he ceased to be employed in employment by virtue of which he was or was deemed to be a contributory employee and the date on which after ceasing to be a pensionable employee of a public board, he enters or has entered employment by virtue of which he is or is deemed to be a contributory employee or local Act contributor."

(2) Provided that this rule shall not apply in relation to a person who, having been a pensionable employee of a public board, became or was deemed to become a contributory employee or local Act contributor before the date of coming into operation of these rules unless—

(i) within six months after that date he gives notice in writing to the authority maintaining the superannuation fund in the benefits of which he is entitled to participate that he desires this rule to apply to him; and

(ii) that authority consent.

12. The principal rules shall apply to any person who on or after the first day of January, 1954, and before the coming into operation of these rules—

(*a*) having been a pensionable employee of a public board within the meaning of paragraph (2) of rule 3 of these rules, but not an employee of the board, entered employment in which he was or was deemed to be a contributory employee or local Act contributor; or

(*b*) having been in employment in which he was or was deemed to be a contributory employee or local Act contributor entered employment in which he was a pensionable employee of a public board within the meaning of paragraph (2) of rule 3 of these rules, but not an employee of that board,

as they would have applied to him if the amendment made in the principal rules by paragraph (2) of rule 3 of these rules had been effective from the said first day of January, 1954:

Provided that—

(i) in lieu of any period allowed under the principal rules for giving any notice or doing any other thing (being a period limited under those rules by reference to a person's entry into employment in which he was or was deemed to be a contributory employee or local Act contributor or, as the case may be, a pensionable employee of a public board) there shall be substituted a period of six months after the coming into operation of these rules;

(ii) where in consequence of this rule payment is required by a local authority or out of a superannuation fund maintained by a local authority, this rule shall apply only with the consent of that authority;

(iii) the transfer value payable in respect of a person to whom paragraph (*b*) of this rule applies who became a pensionable employee of a public board more than twelve months before the coming into operation of these rules shall be calculated by reference to his age at the coming into operation of these rules.

13. Except as provided by rules 11 and 12 of these rules nothing in the principal rules or in these rules shall be construed as applying the principal

rules, or any amendment made in the principal rules by these rules, to a person who, before the coming into operation of these rules—

(*a*) ceased to be in employment in which he was or was deemed to be a contributory employee or local Act contributor and became a pensionable employee of a public board; or

(*b*) ceased to be a pensionable employee of a public board and entered employment in which he was or was deemed to be a contributory employee or local Act contributor,

and (except as aforesaid) in relation to any such person the principal rules as originally made shall continue to apply as if these rules had not been made:

Provided that nothing in this rule shall preclude the application of rule 10 of these rules to or in respect of a person who, having entered employment as a contributory employee or local Act contributor, retires from that employment or dies after the date of coming into operation of these rules.

Dated this 29th day of October, 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 amend the Superannuation (Local Government and Public Boards) (Scotland) Interchange Rules, 1949, which provide for interchange of superannuation rights between pensionable local government employment and pensionable employment under a public board. The amendments are, in the main, consequential on changes in local government superannuation law. They include, in respect of movement from local government to public board employment, provisions with respect to the payment of transfer values and the exercise by local authorities of certain discretionary powers (Rules 4 and 5); and, in respect of movement from public board to local government employment, amended provisions with respect to the reckoning of service, including "added years" (defined in Rule 3 (1)), and the continuation in the new employment of certain voluntary payments which in his former employment the employee was making with a view to adding to, or enhancing the value of, reckonable service (Rules 6 and 7).

The Rules also contain provisions with respect to the amount of contributions reckonable in respect of his former employment by an employee who has transferred to local government employment (Rule 9). Rule 11 enables a former local government employee to resume, in prescribed circumstances, 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). This Rule and, to a limited extent, Rule 12 (which admits to the advantages of the Rule certain persons who though not officers of a public board are in employment which is pensionable under the board's pension scheme), are given retrospective effect under the authority of and subject to the safeguards provided by section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948.

There are other minor and consequential amendments.