(b) SCOTLAND

The Superannuation (Local Government and Public Boards) (Scotland) Interchange Rules, 1949

1949 No. 2252 (S. 154)

Made - - - -	*1st December*, 1949
Laid before Parliament	*5th December*, 1949
Coming into Operation	*6th December*, 1949

The Secretary of State in exercise of the powers conferred on him by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), hereby makes the following rules:—

1.—(1) These rules may be cited as the Superannuation (Local Government and Public Boards) (Scotland) Interchange Rules, 1949, and shall come into operation on the 6th day of December, 1949.

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

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

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

"the date of the coming into operation of these rules" in relation to any public or semi-public body whom the Secretary of State designates for the purposes of these rules means the date of designation;

"national service", in relation to any person, means compulsory national service within the meaning of the Act, 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 compulsory national service continues in similar service;

"public board" means the British Electricity Authority, an Area Electricity Board, the North of Scotland Hydro-Electric Board and such other public or semi-public body as the Secretary of State may from time to time designate; and

"war service", in relation to any person, means war service within the meaning of the Local Government Staffs (War Service) Act, 1939(c), but does not include, in the case of a person who before the termination of his war service made a claim under section 10 of the Act of 1937 or any corresponding provision of a local Act scheme for the return of contributions made by him for superannuation purposes, any part of his war service after the date on which the claim was made.

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

2.—(1) Subject as hereinafter provided this rule shall apply to any person who becomes or has become before the date of the coming into operation of these rules, a pensionable employee of a public board, and who is a person who falls under any one of the following classes:—

(*a*) persons who within a period of twelve months prior to the date on which they became such pensionable employees have been in employment by virtue of which they were or were deemed to be contributory employees or local Act contributors:

(a) 11 & 12 Geo. 6. c. 33.
(b) 1 Edw. 8 & 1 Geo. 6. c. 69.
(c) 2 & 3 Geo. 6. c. 94.
(d) 52 & 53 Vict. c. 63.

(*b*) persons who, within a period of six months prior to the said date have been engaged in war service, having for the purpose of such service left such employment as is specified in sub-paragraph (*a*) of this paragraph:

(*c*) persons who, within a period of six months prior to the said date have been engaged in national service immediately after leaving such employment as is specified in sub-paragraph (*a*) of this paragraph:

Provided that he shall not have become entitled to any benefit under the Act of 1937, or as the case may be, under any local Act scheme, other than the return of contributions.

(2) (*a*) Any person who satisfies the requirements of the last foregoing paragraph may give notice to the public board in whose employment he is, that he desires these rules to apply to him.

(*b*) Any such notice as is referred to in the last foregoing sub-paragraph shall be given by the person concerned in writing within three months after the date on which he became a pensionable employee of the public board, or where the said date preceded the date of the coming into operation of these rules, within six months after the latter date.

(3) Where a person to whom this rule applies gives such notice as is referred to in the last foregoing paragraph, and if he ceased to hold his former employment before the date of the coming into operation of the rules, the authority maintaining the fund to which he was a contributor consent, the like transfer value shall be payable to the superannuation fund maintained by the public board in whose employment the person is, out of the superannuation fund to which he was formerly a contributor by the authority maintaining the last mentioned fund as would have been payable under the regulations for the time being in force by virtue of section twenty-four of the Act of 1937 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.

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

(5) This rule shall not apply in relation to any person who became a pensionable employee of a public board before the date of the coming into operation of these rules unless he ceased to hold his former employment not earlier than the fourth day of February, 1948, or, in the case of a person in the employment of any public or semi-public body designated by the Secretary of State for the purposes of these rules, such date, not being earlier than the fourth day of February, 1948, as the Secretary of State may specify and he has not ceased to be a pensionable employee of the public board before the date of the coming into operation of these rules.

(6) This rule shall not apply in relation to any person who has become a pensionable employee of a public board whether before or after the coming into operation of these rules and who has become entitled to reckon his

service under the Act of 1937 or local Act scheme in relation to his employment under the public board, if the right of the person to reckon that service is not conditional upon the receipt of a transfer value in respect thereof under these rules.

(7) The reference in paragraph 1 (*a*) of this rule to a period of twelve months 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 or such longer period as the Secretary of State may in any particular case allow.

(8) The transfer value payable in respect of a person who became a pensionable employee of a public board before the date of the coming into operation of these rules shall be calculated by reference to his age at that date.

3.—(1) Where a person becomes or has become a pensionable employee of a public board after having ceased to be subject to the Act of 1937 and these rules have become applicable in relation to him, the authority or body by whom he was employed may, within three months after the date on which they are informed by the public board of his notification that he desires these rules to apply to him, resolve that the whole or any part of his non-contributing service (if any) shall be reckonable as contributing service, and if that person was a female nurse, midwife or health visitor to whom section 16 (1) (*a*) of the Act of 1937 applied and had not completed, and could not before attaining the age of sixty years have completed, forty years' service, that authority or body may similarly resolve that a number of years not exceeding five shall be added to the number of years which that person had actually served in the aggregate.

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

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

(4) For the purposes of the last preceding rule, any period of non-contributing service of a person in respect of which a resolution has been passed

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

(5) Where the amount of any transfer value payable under the last preceding rule is increased in consequence of the exercise by an authority or body of any power conferred upon them by paragraph (1), (2) or (3) of this rule, that authority or body shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable.

4. Where a person enters or has entered employment by virtue of which he is or is deemed to be a contributory employee or local Act contributor within a period of twelve months after ceasing to be a pensionable employee of a public board, or if he ceased to be such an employee in order to undertake national service, within a period of six months after the termination of that service, then, if the authority maintaining the fund to which he is a contributor receive out of the superannuation fund maintained by the public board a transfer value, calculated in accordance with a method approved by the Secretary of State, in respect of the service which the person was entitled to reckon for the purposes of the pension scheme administered by the board immediately before he ceased to be employed by the board, 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 :

Provided that—

(*a*) this rule shall not apply to any person unless within three months after entering his new employment or, if he entered that employment before the date of the coming into operation of these rules, within six months after that date, he notifies in writing the authority maintaining the superannuation fund to which he is a contributor that he desires these rules to apply to him, furnishes them with particulars of his previous pensionable employment and national service [if any] and pays to them an amount equal to any sum paid to him by way of a return of contributions, not being contributions made voluntarily for the purpose of securing benefits for his widow, children or other dependants, on or after his ceasing to hold his former employment ;

(*b*) this rule shall not apply in relation to any person who became a contributory employee or local Act contributor before the date of the coming into operation of these rules unless he ceased to hold his former employment not earlier than the fourth day of February, 1948, or, in the case of a person who was formerly employed by a public or semi-public body designated by the Secretary of State for the purposes of these rules, such date, not being earlier than the fourth day of February, 1948, as the Secretary of State may specify and he has been such an employee or contributor without a break of more than twelve months at any one time after ceasing to hold his former employment and he is such an employee or contributor at the date of the coming into operation of these rules, or, if he is not such an employee or contributor at that date, he again becomes such an employee or contributor within twelve months after having ceased to be such an employee or contributor ;

(*c*) any service which for the purposes of the said pension scheme administered by a public board would have been reckonable solely for the purpose of determining whether any benefit was payable thereunder to or in respect of any person shall not be reckonable by that person as service under this rule except for the sole purpose of determining whether any benefit is payable to or in respect of him under the Act of 1937 or a local Act scheme; and

(*d*) if, in the case of a person who has entered employment by virtue of which he is or is deemed to be a contributory employee, any part of the service which he would become entitled to reckon as contributing service by virtue 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, such service shall be reckonable as non-contributing service at double its actual length.

5.—(1) Where any person to whom the last preceding rule has become applicable had agreed to make but had not completed making additional contributions under the pension scheme applicable to him as an employee of the public board in consideration of his service with the public board being treated for pension purposes as increased by an additional period, the period of service which he becomes entitled to reckon under the last preceding rule shall be treated as being increased by such additional period:

Provided that this rule shall not apply unless—

(*a*) the transfer value received from the public board under the last preceding rule was calculated so as to include the liability of which the public board was relieved in respect of the said additional period, after the deduction therefrom of the value of the additional contributions which the person would have been liable to pay had he continued in the employment of the public board; and

(*b*) the person pays to the authority maintaining the superannuation fund to which he is a contributor sums equal to the additional contributions which he would have been liable to pay as aforesaid, at the times at which and in the manner in which those additional contributions would have become due to the public board.

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

6. Where any person to whom rule 4 of these rules has become applicable had before entering his new employment been engaged in national service, the period of service which he becomes entitled to reckon under the said rule shall be treated as being increased by the period of his national service to the extent (if any) to which the said period of national service would have been reckonable as pensionable service for the purposes of the pension scheme administered by the public board, had the person again become a pensionable employee of the public board on the termination of his national service:

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

7. Notwithstanding anything in the Act of 1937 or any local Act scheme, no payment shall be made thereunder by way of a return of contributions to any person in relation to whom rule 2 of these rules has become applicable.

8. The povisions of section 10 of the Act of 1937, and the corresponding provisions of any local Act scheme, shall have effect in relation to a contributory employee or local Act contributor who has been a pensionable employee of a public board as if references therein to contributions which may be returned thereunder on such an employee or contributor ceasing to be employed or dying included references to contributions and additional contributions (not being contributions made voluntarily for the purpose of securing benefits for his widow, children or other dependants) to which he was entitled on ceasing to be subject to the pension scheme administered by the public board in so far as any such contributions have not been returned to and retained by him, and are attributable to service which might have been reckoned under the Act of 1937 or the local Act scheme, as the case may be, for the purposes of superannuation allowance in respect of the employment which he has ceased to hold or in which he has died, as the case may be:

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

9. Where any person to whom rule 4 of these rules has become applicable was in his former employment under a public board an insured person within the meaning of the National Insurance Act, 1946,(**a**) or, if he left that employment before the fifth day of July, 1948, an insured person under the National Health Insurance Acts, 1936 to 1938,(**b**) as amended by the National Health Insurance Contributory Pensions and Workmen's Compensation Act, 1941,(**c**) or the Widows', Orphans' and Old Age Contributory Pensions Act, 1936,(**d**) then—

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

(*b*) if he had not been so excepted—

(i) the provisions of the said regulations shall apply to him as if any service which he becomes entitled to reckon under rules 4, 5 and 6 of these rules, being service of which account would have been taken under the modification provision for the purpose of reducing any benefit to which the person might have become entitled under the said pension scheme had he continued to be subject thereto, were contributing service or service for the purposes of the local Act scheme, as the case may be, rendered on or after the fifth day of July, 1948; and

(**a**) 9 & 10 Geo. 6. c. 67. (**b**) 26 Geo. 5 & 1 Edw. 8. c. 32; 1 & 2 Geo. 6. c. 14.
(**c**) 4 & 5 Geo. 6. c. 39. (**d**) 26 Geo. 5 & 1 Edw. 8. c. 33.

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

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

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

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

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

Dated this 1st day of December, nineteen hundred and forty-nine.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh.

EXPLANATORY NOTE

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

The superannuation benefits provided by the Local Government Superannuation (Scotland) Act, 1937, and by superannuation schemes administered by local Act authorities are substantially equivalent actuarially to the benefits provided by the pension schemes administered by the British Electricity Authority, Area Electricity Board and the North of Scotland Hydro-Electric Board. These rules accordingly make pensionable employment in the local government service interchangeable with pensionable employment under any of these bodies or under any other public or semi-public body that the Secretary of State may designate.