STATUTORY INSTRUMENTS

1967 No. 1516 (S.126)

PENSIONS

The Superannuation (Local Government and Public Transport Services) Interchange (Scotland) Rules 1967

Made - - - -	11*th October* 1967
Laid before Parliament	25*th October* 1967
Coming into Operation	1*st November* 1967

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 Public Transport Services) Interchange (Scotland) Rules 1967, and shall come into operation on 1st November 1967.

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 1953 " means the Local Government Superannuation Act 1953(d);

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

" added years " means—

(*a*) in relation to a person in local government employment, 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 or under any enactment, 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

(a) 1948 c. 33.
(b) 1909 c. 48.
(c) 1937 c. 69.
(d) 1953 c. 25.
(e) 1937 c. 69; 1939 c. 18; 1953 c. 25.

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 person employed in transport employment, 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;

" the benefits regulations " means the Local Government Superannuation (Benefits) (Scotland) Regulations 1954(**a**);

" contributory employee " has the same meaning as in the Act of 1937;

" local Act contributor " has the same meaning as in the Act of 1937;

" local government employment " means employment by virtue of which the person employed is or is deemed to be a contributory employee or local Act contributor;

" national service " in relation to any person means service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(**b**), and any similar service immediately following relevant service, entered into with the consent of the authority or person by whom he was employed before undertaking that service;

" the transfer value regulations " means the Local Government Superannuation (Transfer Value) (Scotland) Regulations 1954(**c**);

" the transport authority " in relation to a person engaged in transport employment means the authority or body responsible for the administration of the superannuation fund of which he is a member;

" transport employment " in relation to any person means employment in which he is a member of any superannuation fund mentioned in column 1 of the schedule to these rules;

" voluntary contributions " means, in relation to a person who has entered transport employment after ceasing to be employed in local government employment, payments made voluntarily by him, while in local government employment, 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) made in respect of added years;

" war service " means war service within the meaning of the Local Government Staffs (War Service) Act 1939(**d**), 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.

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

(3) The Interpretation Act 1889(e) shall apply for the interpretation of these rules as it applies for the interpretation of an Act of Parliament.

(**a**) S.I. 1954/1059 (1954 II, p. 1632).
(**b**) 1951 c. 65.
(**c**) S.I. 1954/1256 (1954 II, p. 1736).
(**d**) 1939 c. 94.
(**e**) 1889 c. 63.

Definition of " the prescribed time limit "

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

(*a*) in rule 4, a period of 12 months after ceasing to be employed in local government employment or, in the case of a person who immediately after leaving such employment became engaged in national service, a period of 6 months after the termination of that service;

(*b*) in rule 6, a period of 12 months after ceasing to be employed in transport employment or, in the case of a person who immediately after leaving such employment became engaged in national service, a period of 6 months after the termination of that service:

Provided that—

(i) the reference in paragraph (*a*) of this rule to a period of 12 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 5 years from that date or such longer period as the Secretary of State may, in any particular case, allow;

(ii) in reckoning the period of 12 months mentioned in paragraph (*a*) no account shall be taken of a period of probationary service required as a condition of admission to membership of the relevant transport employment superannuation fund; and

(iii) without prejudice to the preceding provisions of this proviso, any period mentioned in paragraph (*a*) or (*b*) of this rule may in any particular case be extended by the admitting authority with the consent of the authority maintaining the superannuation fund to which the person was last a contributor.

PART II

TRANSFER FROM LOCAL GOVERNMENT EMPLOYMENT TO TRANSPORT EMPLOYMENT

Transfer values payable by local authorities

4.—(1) Subject as hereinafter provided, where a person becomes, or before the date of the coming into operation of these rules became, employed in transport employment within the prescribed time limit after ceasing to be employed in local government employment (in this Part of these rules referred to in relation to such a person as his " former employment ") 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—

(*a*) the like transfer value shall be payable to the transport authority out of the superannuation fund to which the person was a contributor in his former employment by the authority maintaining that fund as would have been payable under the transfer value regulations 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

(*b*) the like particulars relating to the person's previous pensionable service shall be furnished to the person as would have been given to him if instead of entering transport employment he had become a contributory employee.

(2) The foregoing paragraph shall not apply to any person unless within 3 months after becoming employed in transport employment or within 6 months

after the date of the coming into operation of these rules, whichever period last expires, or within such longer period as the transport authority may with the consent of the authority maintaining the superannuation fund to which he was a contributor in any particular case allow, he

(*a*) notifies the transport authority in writing that he desires these rules to apply to him;

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

(*c*) pays to the transport authority an amount equal to any sum paid to him by way of return of contributions, other than voluntary contributions.

(3) Paragraph (1) of this rule shall not apply to any person who ceased to hold his former employment before the date of the coming into operation of these rules unless—

(*a*) the authority maintaining the fund to which he was a contributor consent; and

(*b*) he entered transport employment not earlier than the date (if any) specified for that employment in column 2 of the schedule to these rules and has remained in transport employment without a break of more than 12 months at any one time until the coming into operation of these rules or until he ceased to be employed in circumstances in which he became entitled to a superannuation benefit under the relevant scheme.

(4) The transfer value payable in respect of a person who ceased to hold his former employment more than 12 months before the date of the coming into operation of these rules shall be calculated by reference to his age at that date.

(5) The transfer value payable in respect of a person who since leaving his former employment and before entering his new employment has undergone a course of study or training, approved by his new employer and either—

(*a*) entered his new employment within a period of 3 months immediately preceding the date of the commencement of these rules; or

(*b*) enters his new employment on or after that date,

shall be calculated by reference to his age at the date when he became employed in transport employment.

(6) 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 schedule 1 to the transfer value regulations.

(7) Where a transfer value is payable in respect of a person who before becoming employed in local government employment 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 in local government employment, have been liable to contribute to that allowance, that body or, if that body has been dissolved or has ceased to exercise functions as such, 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 regulation 52(4) of the National Health Service (Scotland) (Superannuation) Regulations 1950(**a**), if that regulation had become applicable to the person on the date when he entered transport employment; and where that

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

body would 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 a sum equal to the transfer value which that other body or the appropriate authority in relation to that other body 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 entered transport employment.

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) Where a person becomes, or before the date of the coming into operation of these rules became, employed in transport employment after having ceased to be employed in local government employment and these rules have become applicable to him, the authority or body by whom he was employed may, within 3 months after the date on which they are informed by the transport authority of his notification that he desires these rules to apply to him, exercise 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 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 the service in respect of which the higher rate of benefit is payable into contributing service or service for the purposes of the relevant local Act scheme in the manner in which non-contributing service is converted into contributing service under section 2(4) 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 TRANSPORT EMPLOYMENT TO LOCAL GOVERNMENT EMPLOYMENT

Reckoning of previous service

6.—(1) Subject as hereinafter provided, where a person becomes, or before the date of the coming into operation of these rules became, employed in local government employment within the prescribed time limit after ceasing to be employed in transport employment and without having been granted a pension out of any superannuation fund mentioned in the schedule to these rules, then if the authority maintaining the superannuation fund to which he becomes, or first became, a contributor received from the transport authority an amount equal to the sum payable in respect of that person under the rules governing the relevant fund upon the person entering local government employment, he shall be entitled to reckon as contributing service or service for the purposes of the local Act scheme, as the case may be, such number of completed years and months as having regard to his age and remuneration at the date on which he becomes or became employed in local government as aforesaid would have produced a transfer value of the said amount under the transfer value regulations had he ceased to be a contributory employee at the said date:

Provided that this rule shall not apply to—

(i) any person unless within 3 months after entering his new employment or within 6 months after the date of the coming into operation of these rules, whichever period last expires, or within such longer period as the authority maintaining the superannuation fund to which he is a contributor may with the consent of the transport authority allow, he notifies the authority maintaining the superannuation fund to which he is a contributor in writing that he desires these rules to apply to him and furnishes them with particulars of his previous superannuable employment;

(ii) any person who left transport employment before the date specified for that employment in column 3 of the schedule to these rules.

(2) A person to whom this rule applies shall not be entitled under section 12(2) of the Act of 1937 or any corresponding provision of a local Act scheme to reckon as service any local government employment prior to the date on which he became employed in transport employment if a transfer value has been paid in respect of that local government employment under rule 4 of these rules or under the corresponding provision of any other rules made under section 2 of the Act.

(3) The reference in paragraph (1) of this rule to a transfer value shall be construed as a reference to a transfer value which is not subject to reduction under Part IV of the transfer value regulations or under any regulations made under section 110 of the National Insurance Act 1965(a).

Continuation of payments made with a view to adding to, or enhancing the value of, previous service.

7. Where any person to whom rule 6 of these rules has become applicable was, at the time when he ceased to be employed in transport employment, in the course of making payments by way of—

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

(a) 1965 c. 51.

(*b*) contributions of a fraction or percentage of emoluments,

in respect of added years or as a condition of being entitled to reckon any period of service for superannuation purposes or as a condition of increasing the length at which any period of service would be reckoned for those purposes, he shall be entitled to continue making those payments to the authority maintaining the superannuation fund to which he is a contributor in his new employment, and in respect of those payments there shall be added to the service which he is entitled to reckon under rule 6 of these rules such period as may be certified by an actuary to be appropriate.

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 a return of contributions, other than voluntary contributions, to any person to whom rule 4 of these rules has become applicable.

Computation of contributions of a person to whom rule 6 has become applicable

9.—(1) Where a person to whom rule 6 of these rules applies, leaves local government employment, 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 purposes 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 provisions 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 interest thereon, interest shall also be payable in respect of the amount by which those contributions are increased under the last preceding paragraph, calculated—

(*a*) as respects the period ending immediately before the day on which he became employed in local government employment, 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 interest thereon; and

(*b*) as respects the period beginning with the date on which he became employed in local government employment in accordance with the provisions of section 10 of the Act of 1937 or, as the case may be, the corresponding provision of the relevant local Act scheme.

(3) 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 dependant; or

(*b*) any sum in respect of contributions which, on or after the person ceasing to be employed in transport employment, were returned to and retained by him.

Calculation of " average remuneration " for periods of service less than 3 years

10. Where a person to whom rule 6 of these rules has applied ceases to be employed in local government employment within 3 years after becoming so employed and does so in circumstances in which he is entitled to a benefit (other than a return of contributions) under the Acts of 1937 to 1953 or under the local Act scheme to which he was subject, his average remuneration for the purpose of calculating any such benefit shall be deemed to be the annual average of his remuneration for the period during which he was last employed in local government employment.

Application of section 11 of the Local Government Superannuation Act 1953

11. The provisions of section 11 of the Act of 1953 (which enables persons who would otherwise be debarred from becoming contributory employees or local Act contributors on grounds of age to reckon, in relation to local government employment, previous service reckonable under a pension scheme) shall apply in relation to a person who entered local government employment from transport employment before the commencement of these rules; and sub-section (3) of that section shall have effect as if references to the passing of the Act included references to the commencement of these rules:

Provided that this rule shall not apply to any person who left transport employment before the date specified for that employment in column 3 of the schedule to these rules.

Appeals

12. 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 in the said section to regulations made under that Act included a reference to these rules.

William Ross,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

11th October 1967.

SCHEDULE

TRANSPORT SUPERANNUATION FUNDS
AND EARLIEST DATES FOR RETROSPECTIVE APPLICATION OF THESE RULES

Title of Superannuation Fund	Earliest date of retrospection of rule 4	Earliest date of retrospection of rule 6
column 1	column 2	column 3
London and North Eastern Railway Superannuation Fund	1st June 1957	1st June 1957
London Midland and Scottish Railway Superannuation Fund	—	1st June 1957
Great Western Railway Superannuation Fund	—	1st June 1957
Southern Railway Superannuation Fund	—	1st June 1957
Railway Clearing System Superannuation Fund	—	4th March 1959
London Transport (Administrative and Supervisory) Staff Superannuation Fund ..	1st August 1954	1st August 1954
British Road Services (Salaried Staff) Group Superannuation Fund	1st April 1957	1st April 1957
Scottish Bus Group Pension Fund	1st April 1960	1st April 1960

EXPLANATORY NOTE

(This Note is not part of the rules.)

These rules provide for the aggregation of service and for a single superannuation award in cases where persons transfer within the prescribed period (generally 12 months) from pensionable employment with a local authority in Scotland to employment entailing membership of certain superannuation schemes associated with the public transport services, or where within a similar period persons transfer from the latter to the former employment. Where such a transfer is made the person is enabled, subject to the payment of an appropriate transfer value, to reckon previous service for pension under the superannuation scheme to which he transfers.

The rules are given retrospective effect to a limited extent under the express powers of, and subject to the safeguards required by, section 2(5) of the Superannuation (Miscellaneous Provisions) Act 1948.