(ii) SCOTLAND

The Superannuation (Local Government Staffs) (National Service) (Scotland) Rules, 1949

1949 No. 581 (S. 30)

Made - - - -	*25th March*, 1949
Laid before Parliament	*29th March*, 1949
Coming into Operation	*1st April*, 1949

The Secretary of State, in exercise of the powers conferred on him by sections 1 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 Staffs) (National Service) (Scotland) Rules, 1949, and shall come into operation on the first day of April, 1949.

(2) In these rules, " the Act of 1937 " means the Local Government Superannuation (Scotland) Act, 1937(b), and " national service ", in relation to any person, means compulsory national service within the meaning of the Superannuation (Miscellaneous Provisions) Act, 1948, 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.

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

2.—(1) Subject to the provisions of rule 4 of these rules, where a person immediately before he entered upon national service was in employment in which he was entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937 or under a local Act scheme and on the termination of his national service or within six months thereafter he again becomes entitled to participate in the benefits of such a superannuation fund as aforesaid, the Act of 1937 or local Act scheme shall apply in relation to him as if he had continued in his former employment during the period of his national service and been entitled to the remuneration thereof:

Provided that—

(*a*) if on or after ceasing to hold his former employment the person made a claim for the return of his contributions—

(i) no part of his national service after the date of the claim shall be taken into account for the purpose of determining whether he has served for any minimum number of years required for the receipt of any benefit under the Act of 1937 or a local Act scheme or for the purpose of calculating any such benefit or any transfer value payable in respect of him ; and

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

(ii) the part of his national service before the date of the claim shall only be so reckonable if within three months after again becoming entitled to participate as aforesaid he pays or repays to the local authority maintaining the fund to which he is a contributor, an amount equal to the sum paid to him by way of a return of contributions; and

(*b*) if the person received a return of contributions on ceasing to hold his former employment, nothing in this rule shall prevent his being treated as if he had received such a return on so ceasing for the purposes of section 13 of the Act of 1937 and the corresponding provisions of any local Act scheme and any regulations made under the Act of 1937 prescribing transfer values.

(2) Where a person who has undertaken national service immediately after ceasing to hold such employment as aforesaid, and who has not on or after ceasing to hold that employment made a claim for the return of his contributions—

(*a*) dies during his period of national service; or

(*b*) is prevented, in consequence of being permanently incapacitated by injury or disease, from resuming employment in his former capacity;

he shall be deemed to have returned to his former employment immediately before his death or on the termination of his national service, as the case may be.

(3) Where a person has undertaken national service immediately after ceasing to hold such employment as aforesaid and on the termination of that service or within six months thereafter he becomes an employee of a local authority but is not entitled to participate in the benefits of such a superannuation fund as aforesaid, then, if he subsequently becomes entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937, the period of his national service, excluding, in the case of a person who made a claim for a return of contributions, any part of that service after the date of the claim, shall be reckonable as a period of non-contributing service.

3. Subject to the provisions of the next succeeding rule, where a person immediately before he entered upon national service was an employee of a local authority, not being a person who was entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937 or under a local Act scheme, and on the termination of that service or within six months thereafter he again becomes such an employee or becomes entitled to participate in the benefits of such a superannuation fund as aforesaid, the Act of 1937 and any local Act scheme shall, upon his becoming subject thereto, apply in relation to him as if he had continued in his former employment during the period of his national service and been entitled to the remuneration thereof.

4. Notwithstanding the foregoing provisions of these rules, the national service of a person to whom rule 2 or 3 of these rules applies shall not be reckonable for the purpose of determining whether he has served for any minimum number of years required for the receipt of any benefit under the Act of 1937 or a local Act scheme, or for the purpose of calculating any such benefit or any transfer value payable in respect of him or, in the case of a person to whom rule 3 applies, for the purpose of determining whether he is entitled to be made subject to the Act of 1937 or a local Act

scheme, unless during the period of his national service he has made or immediately after becoming a person to whom rule 2 or 3 applies he makes the like contributions (if any) as he would have been liable to make during the said period if he had continued to follow his former employment and been entitled to the remuneration thereof, and if he has made or makes such contributions the authority or body by whom he was formerly employed shall make the like contributions in respect of him as they would have been liable to make if he had so continued to follow his employment as aforesaid:

Provided that nothing in this rule shall—

(*a*) require the payment of contributions by a person after the date on which he has made a claim for the return of his contributions as a condition of his becoming entitled to reckon the period of his national service before the date of the claim; or

(*b*) require payment of contributions by a person who has entered employment under a local authority in which he is not entitled to participate in the benefits of a superannuation fund maintained under Part I of the Act of 1937 or under a local Act scheme as a condition of becoming entitled to reckon the period of his national service as a period of non-contributing service for the purposes of the Act of 1937 upon his becoming subject thereto.

5. The provisions of section 30 of the Act of 1937 shall have effect in relation to a person to whom these rules apply as if the reference therein to regulations made under that Act included a reference to these rules.

Dated this 25th day of March, 1949.

Arthur Woodburn,
One of His 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 enable a person who is entitled to participate in the benefits of a superannuation fund maintained under the Local Government Superannuation (Scotland) Act, 1937, or any local Act scheme, if he is called up for national service, to continue to make contributions to the superannuation fund and so to secure that if on his return from his national service he again becomes a contributor to such a fund he will be able to reckon his national service as if it were service for the purposes of the Act of 1937 or any local Act scheme.

Provision is also made by the rules to secure that if a non-pensionable employee of a local authority who has undertaken national service returns to civil employment and becomes entitled to participate in any such superannuation fund his national service may be taken into account for superannuation purposes.