1955 No. 982 (S. 105)

The Superannuation (Policy and Local Government Schemes) Interchange (Scotland) Amendment Rules, 1955

Made - - - -	1*st July*, 1955
Laid before Parliament	8*th July*, 1955
Coming into Operation	9*th July*, 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.—(1) These rules may be cited as the Superannuation (Policy and Local Government Schemes) Interchange (Scotland) Amendment Rules, 1955, and shall come into operation on the 9th day of July, 1955.

(2) These rules and the Superannuation (Policy and Local Government Schemes) Interchange (Scotland) Rules, 1948(**b**) (hereinafter referred to as "the principal rules") shall be construed as one, and may be cited together as the Superannuation (Policy and Local Government Schemes) Interchange (Scotland) Rules, 1948 and 1955.

(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. In rule 3 of the principal rules—

(*a*) after the words "Where a person" there shall be inserted the words "(other than a person to whom rule 3A of these rules applies)";

(*b*) for the words from "with the consent of the body" to the end of the rule there shall be substituted the following words—

"where the terms of the relevant scheme so provide or permit, pay the contributions authorised or required by the scheme to be paid by the employer, and in any other case, subject to the policies held in respect of the person under the relevant scheme being assigned to the authority or body by whom he is employed, may make suitable arrangements to be approved by the Secretary of State for carrying out the relevant scheme with such modifications as may be appropriate and if the authority or body pay the aforesaid contributions or make the aforesaid arrangements the person shall not in that employment be subject to the provisions of the Local Government Superannuation (Scotland) Acts, 1937 to 1953, (hereinafter called "the Acts") or the local Act scheme."

3. After rule 3 of the principal rules there shall be inserted the following rule—

"**3A.**—(1) Subject as hereinafter provided, where a person enters employment in which, but for the provisions of these rules, he would be or would be deemed to be a contributory employee or local Act contributor to whom regulation 21 or 22 of the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(**d**), applies, having—

(*a*) before the first day of October, 1954; and

(*b*) within twelve months before entering such employment,

(**a**) 11 & 12 Geo. 6. c. 33. (**b**) S.I. 1948/1462 (Rev. XVII, p. 582: 1948 I, p. 3319).
(**c**) 52 & 53 Vict. c. 63. (**d**) S.I. 1954/1059 (1954 II, p. 1632).

been an officer of an employing authority participating in the scheme mentioned in paragraph (1) of regulation 30 of the National Health Service (Scotland) (Superannuation) Regulations, 1950(a), or participating in any other scheme of a similar character which was being carried out by the Secretary of State in relation to him as such officer under paragraph (2) or (5) of regulation 30 of the last-named regulations, he shall be treated for the purposes of these rules as if the scheme in which he was participating was a scheme approved for the purposes of rule 3 of these rules.

(2) Notwithstanding anything in rule 3 of these rules if a person to whom the last foregoing paragraph applies so requests the authority or body by whom he is employed in writing within three months after entering their employment that authority or body shall pay the contributions authorised or required by the scheme to be paid by the employer:

Provided that if the consent of and arrangements made with a body administering the scheme are necessary in order that this rule may be complied with, this rule shall not apply if that consent is not given and those arrangements cannot be made.

(3) In this rule—

(*a*) "employing authority" has the meaning assigned to it by paragraph (3) of regulation 1 of the National Health Service (Scotland) (Superannuation) Regulations, 1950; and

(*b*) any reference to a provision of the last-named regulations shall, unless the context otherwise requires, include a reference to that provision as amended by or re-enacted in any regulations made under section 66 of the National Health Service (Scotland) Act, 1947(b), whether made before or after the date on which these rules are made.

4. In rule 4 for the words "the last preceding rule" there shall be substituted the words "rule 3 or 3A of these rules".

5. In rule 5 of the principal rules—

(*a*) for paragraph (1) there shall be substituted the following paragraph—

"(1) Where a person within twelve months after ceasing to be employed in employment by virtue of which he was or was deemed to be a contributory employee or local Act contributor, and without having become entitled in either of those capacities to a superannuation benefit other than a return of contributions, enters employment in which he is a participant in the pension scheme operated under the Federated Superannuation System for Universities or the Federated Superannuation Scheme for Nurses and Hospital Officers or any other similar pension scheme approved by the Secretary of State, after consultation with associations of local authorities appearing to him to be concerned, the person may within three months after becoming such participant notify the local authority maintaining the superannuation fund to which he was a contributor that he desires the provisions of these rules to apply to him, and in that event that authority may, if the body administering or, as the case may be, the institution participating in the pension scheme in which he is a participant (hereinafter called "the relevant scheme") undertakes, or by the terms of the relevant scheme is obliged,—

(*a*) to invest or secure the investment of such sum as is hereinafter mentioned for his benefit under the relevant scheme in the

(a) S.I. 1950/498 (1950 I, p. 1458). (b) 10 & 11 Geo. 6. c. 27.

purchase of a policy of insurance on his life providing for the payment on his retirement at or after a specified age or on earlier retirement through incapacity of an annuity to him or of such joint annuity to him and another as he may be entitled to select in accordance with the terms of the relevant scheme (such annuity or joint annuity not to be capable of assignment and, except on such conditions as the Secretary of State may approve, not to be capable of commutation); and

(*b*) to comply with the provisions of the next succeeding paragraph, pay out of the superannuation fund maintained by them to that body or institution a sum equal to the amount of the transfer value which would have been payable had he become a contributory employee, or such lesser sum as the authority may in exceptional circumstances determine to be reasonable:

Provided that a person who receives a return of contributions on or after ceasing to be employed as aforesaid shall not be entitled to the benefit of the foregoing provisions of this paragraph unless, on entering such further employment as aforesaid, he repays to the local authority maintaining the superannuation fund to which he was a contributor an amount equal to the sum paid to him by way of return of contributions together with an amount equal to any income tax which was deducted from his contributions in respect of such payment.";

(*b*) for paragraph (2) there shall be substituted the following paragraph—

"(2) If a person to whom the preceding paragraph has been applied ceases to participate in the relevant scheme in circumstances in which he becomes entitled to a benefit based solely on his contributions thereunder, the said body or institution shall pay to the local authority maintaining the superannuation fund to which he was a contributor a sum equal to the sum received by the body or institution pursuant to the provisions of the preceding paragraph in respect of the person, and the local authority shall pay to him a sum equal to any amount which was paid to him by way of a return of contributions and repaid by him pursuant to the proviso to the preceding paragraph or, if no such payment was made to him, a sum equal to the amount which would have been paid to him by way of a return of contributions on his ceasing to be or to be deemed to be a contributory employee or local Act contributor."

(*c*) in paragraph (3) for the words "by the body administering the relevant scheme in compliance with" there shall be substituted the words "pursuant to".

(*d*) after paragraph (3) thereof there shall be inserted the following paragraphs—

"(3)A If a person to whom paragraph (1) of this rule has been applied—

(*a*) leaves the employment in which he is a participant in the relevant scheme in circumstances other than those in which paragraph (2) of this rule applies; and

(*b*) within twelve months after leaving that employment and within five years after ceasing to be or to be deemed to be a contributory employee or local Act contributor again enters employment in which he is or is deemed to be a contributory employee or local Act contributor; and

(*c*) within three months after entering the last-mentioned employment notifies the authority or body by whom he is employed in that employment that he desires the provisions of this paragraph to apply to him,

then, if the body administering or, as the case may be, the institution participating in the relevant scheme pays to the local authority maintaining the superannuation fund in the benefits of which the person is entitled to participate a sum equal to the sum received by them pursuant to the provisions of paragraph (1) of this rule in respect of the person, he shall be entitled to reckon such service as he would have been entitled to reckon had there been no break between his ceasing to be or to be deemed to be a contributory employee or local Act contributor and his again becoming such an employee or contributor as aforesaid.

(3)B Where the said body or institution has made a payment under the last preceding paragraph to a local authority other than the local authority maintaining the superannuation fund in which the person was a contributor before he became a participant in the relevant scheme, the last-mentioned authority shall pay, out of the superannuation fund maintained by them, to that other authority—

(*a*) a sum equal to the difference, if any, between the sum paid under paragraph (1) of this rule to the said body or institution and the amount of the transfer value which would have been payable had the person instead of becoming a participant in the relevant scheme become a contributory employee; and

(*b*) a sum equal to interest on the amount of the said difference calculated from the date of payment of the sum paid under paragraph (1) of this rule at the rate appropriate in relation to the said superannuation fund.";

(*e*) for paragraphs (4) and (5) thereof there shall be substituted the following paragraphs:—

"(4) If a local authority have received a payment under paragraph (2) of this rule in respect of a person who makes a payment under paragraph (3) of this rule to another local authority the first-mentioned authority shall pay out of the superannuation fund maintained by them to that other authority a sum equal to the amount of the transfer value which would have been payable by the first-mentioned authority in respect of the person if at the time when he became a participant in the relevant scheme he had become, instead, a contributory employee:

Provided that the sum payable by the first-mentioned authority to the other authority shall—

(i) be reduced by an amount equal to the sum paid to the person under paragraph (2) of this rule; and

(ii) be increased by an amount equal to interest on the sum received by the first-mentioned authority under paragraph (2) of this rule calculated from the date of receipt of that sum at the rate appropriate in relation to the superannuation fund maintained by them.

(5) Any sums paid under the last five preceding paragraphs to a local authority maintaining a superannuation fund shall be paid by them into that fund."

6. A new rule shall be inserted in the principal rules in the following terms:—

"**6.** A person to whom paragraph (1) of rule 5 of these rules has been applied shall not be entitled to receive any payment by way of return of

contributions under the Acts or under a local Act scheme in respect of his ceasing to be employed in the employment in which, before the said paragraph was applied to him, he was or was deemed to be a contributory employee or local Act contributor."

Dated this 1st day of July, 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 (Policy and Local Government Schemes) Interchange (Scotland) Rules, 1948.

Rule 2 amends rule 3 of the principal rules (which enables a person who enters local government employment after having been subject to an approved policy scheme to remain in the policy scheme instead of becoming superannuable under the Local Government Superannuation (Scotland) Acts or a local Act scheme). The amendment, which is mainly of a drafting character, provides for payment by the local authority of the employer's contributions under the policy scheme or, if under the terms of the policy scheme that is not permissible or agreeable to the trustees of the scheme, for the local authority (on assignment of the insurance policies) to make arrangements to be approved by the Secretary of State for carrying out the policy scheme with any appropriate modifications.

Rule 3 applies (with modifications) rule 3 of the principal rules (as amended by these rules) to officers of an employing authority who enter local government employment after having been, in the central health service, subject to a policy scheme. This rule replaces similar provisions of the National Health Service (Scotland) (Superannuation) Regulations, 1950.

Rule 4 is consequential on rule 3.

Rule 5 (*a*) provides that where a person leaves local government employment and becomes subject to an approved policy scheme the local authority may pay to the body administering the policy scheme a sum which will ordinarily be equal to the transfer value which would have been payable if the employee had become a contributory employee with another local authority. Rule 5 (*b*) amends rule 5 (2) of the 1948 Rules so as to require the body adminstering the policy scheme to repay the transfer value previously received if the employee in respect of whom the transfer value was paid ceases to participate in the policy scheme in circumstances in which he becomes entitled to a benefit based solely on his own contributions. Rules 5 (*d*) and 5 (*e*) provide for the reckoning of previous local government service on the return of a person to local government within a limited period, and for the payment or payments to be made to the local authority maintaining the relevant superannuation fund.

Rule 6 precludes the return of contributions under the Local Government Superannuation (Scotland) Acts or a local Act scheme where rule 5 of the principal rules has become applicable.