1961 No. 1895

PENSIONS

The Superannuation (Teaching and Local Government) Interchange Rules, 1961

Made - - - -	3*rd October*, 1961
Laid before Parliament	10*th October*, 1961
Coming into Operation	18*th October*, 1961

The Minister of Education, with the consent of the Treasury, and the Minister of Housing and Local Government jointly in exercise of the powers conferred upon them by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), hereby make the following rules 1 to 28, and the Minister of Education, with the like consent, in exercise of the powers conferred upon him by section 11 of that Act, hereby makes the following rule 29:—

PART I

Introductory

Citation and Commencement

1. These rules may be cited as the Superannuation (Teaching and Local Government) Interchange Rules, 1961, and shall come into operation on the 18th day of October, 1961.

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 1925" means the Teachers (Superannuation) Act, 1925(c);

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

"the Act of 1939" means the Local Government Staffs (War Service) Act, 1939(e);

"the Act of 1945" means the Teachers (Superannuation) Act, 1945(f);

"the Act of 1953" means the Local Government Superannuation Act, 1953(g);

"the Acts of 1937 to 1953" means the Local Government Superannuation Acts, 1937 to 1953;

"the Teachers Acts" means the Teachers (Superannuation) Acts, 1918 to 1956;

(a) 11 & 12 Geo. 6. c. 33.
(b) 9 Edw. 7. c. 48.
(c) 15 & 16 Geo. 5. c. 59.
(d) 1 Edw. 8 & 1 Geo. 6. c. 68.
(e) 2 & 3 Geo. 6. c. 94.
(f) 8 & 9 Geo. 6. c. 14.
(g) 1 & 2 Eliz. 2. c. 25.

"added years" means—

(i) in relation to a person in local government service, 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 regulations made under the Third or Fourth Schedule to the Act of 1953, 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;

(ii) in relation to a person employed in contributory service, any additional years of service of the nature of additional years of service referred to in paragraph (i) of this definition which have become, or are in course of becoming, reckonable in his employment in contributory service;

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

"local authority" includes, in the case of a local authority who have ceased to exist, the local authority by whom the expenses of the first-mentioned local authority were defrayable, and "authority" shall be construed accordingly;

"Local Government Modification Regulations" means the National Insurance (Modification of Local Government Superannuation Schemes) Regulations, 1947(b), and any provisions contained in the benefits regulations or in a local Act scheme or in a scheme made in relation to a local Act replacing wholly or in part the provisions of the National Insurance (Modification of Local Government Superannuation Schemes) Regulations, 1947;

"local government service" means service in employment by virtue of which the person employed is or is deemed to be a contributory employee or local Act contributor within the meaning of the Act of 1937;

"the Minister" means the Minister of Education;

"national service" means service such as is specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(c), and includes service immediately following such service as aforesaid, being service in any of Her Majesty's naval, military or air forces, pursuant to a voluntary engagement entered into with the consent—

(*a*) in the case of a person whose last relevant employment was as a justices' clerk, of the authority by whom he was appointed; or

(*b*) in the case of any other person, of the authority or person under whom he held his last relevant employment;

"pension" has the meaning assigned to that expression by the Act;

"return of contributions" means any contributions repaid to a person under subsection (1) of section 12 of the Act of 1925, subsection (1) of section 8 of the Act of 1945, section 10 of the Act of 1937 or under a local Act scheme or under any such section or scheme as amended by these rules, as the context requires;

"the Teachers Modification Regulations" means the National Insurance (Modification of Teachers' Pensions) Regulations, 1948(d);

(a) S.I. 1954/1048 (1954 II, p. 1595).
(b) S.R. & O. 1947/1245 (Rev. XVI, p. 273: 1947 I, p. 1498).
(c) 14 & 15 Geo. 6. c. 65.
(d) S.I. 1948/889 (Rev. XVI, p. 298: 1948 I, p. 2851).

"the transfer value regulations" means the Local Government Superannuation (Transfer Value) Regulations, 1954(a), or, in the case of a person in relation to whom those regulations are affected by regulation 11 of the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 Regulations, 1961(b), the said regulations of 1954 as so affected;

"voluntary contributions" means—

(i) in relation to a person who has become employed in contributory service after leaving employment in local government service, 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—

(*a*) additional contributory payments of the kind referred to in subsections (3) and (4) of section 2 of the Act of 1953;

(*b*) 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 the reckoning of non-contributing service, as contributing service for the purposes of the scheme;

(*c*) 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;

(*d*) any payments made in respect of added years;

(ii) in relation to a person who has entered local government service after leaving employment in contributory service, any payments similar in character to any such payments as aforesaid for which provision is made in the Teachers Acts;

"war service" means war service within the meaning of the Act of 1939 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) Other expressions which have meanings assigned to them by the Acts of 1937 or 1953 or the Teachers Acts, have the same respective meanings for the purposes of these rules.

(3) Any reference in these rules to the provisions of any enactment, rules, regulations or other instrument shall be construed as a reference to those provisions as amended, applied or re-enacted by any subsequent enactment, rules, regulations or instrument.

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

(5) For the purposes of these rules a justices' clerk shall be deemed to be in the employment of the magistrates' courts committee by whom he is or, under the provisions of the Justices of the Peace Act, 1949(d), is deemed to have been, appointed and references to employment and any similar references shall, in relation to any such person, be construed accordingly.

(a) S.I. 1954/1212 (1954 II, p. 1723).
(b) S.I. 1961/405 (Pt. I, p. 1031).
(c) 52 & 53 Vict. c. 63.
(d) 12, 13 & 14 Geo. 6. c. 101.

Revocation and Transitional Provisions

3. The Superannuation (Teaching and Local Government) Rules, 1950(a), are hereby revoked:

Provided that—

(*a*) without prejudice to the general application of section 38 of the Interpretation Act, 1889 (which relates to the effect of repeals) in so far as any agreement, order, requirement, designation, application, request or representation made, or any resolution passed, or any notice, direction, consent, sanction, approval, exemption, or certificate given under any rule revoked by these rules, or any conditions imposed, or any proceedings instituted, or any other thing done, under any such rule, could have been made, passed, given, imposed, instituted or done under or by a corresponding provision of these rules, it shall not be invalidated by these rules, but shall have effect as if it had been made, passed, given, imposed, instituted or done under or by that provision; and

(*b*) where a transfer value has become payable before the date of the coming into operation of these rules, any outstanding liability in respect of that transfer value shall be discharged in the manner in which it would have been required to be discharged if these rules had not been made.

Definition of "the prescribed period"

4.—(1) Subject as hereinafter provided, "the prescribed period" means—

(*a*) in paragraph (1) of rule 5, a period of twelve months after ceasing to be employed in contributory service or, in the case of a person who was employed in contributory service immediately before he entered upon national service, a period of six months after the termination of the national service;

(*b*) in paragraph (1) of rule 18, a period of twelve months after ceasing to be employed in local government service or, in the case of a person who was employed in local government service immediately before he entered upon national service, a period of six months after the termination of the national service:

Provided that the reference in sub-paragraph (*b*) of this paragraph to a period of twelve months from the date on which a person ceased to be employed in local government service 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 from that date or such longer period as the Minister of Housing and Local Government may, in any particular case, allow.

(2) Subject as hereinafter provided—

(*a*) in reckoning the said period of twelve months, or as the case may be, the said period of six months mentioned in sub-paragraphs (*a*) and (*b*) of the last preceding paragraph no account shall be taken of any period spent by the person on a course of study or training which he entered after leaving his former employment;

(*b*) if the person left employment in contributory service, or, as the case may be, employment in local government service in order to enter a course of study or training and on completion of that course became engaged in national service, he shall be deemed for the purposes of

(a) S.I. 1950/1108 (1950 II, p. 262).

the last preceding paragraph to have left his former employment at the time when he completed the said course of study or training.

(3) The provisions of the last preceding paragraph shall not apply—

(*a*) to a person who in his new employment is in local government service unless the authority employing him in his new employment are satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of his new employment;

(*b*) to a person who in his new employment is in contributory service unless—

(i) before leaving his former employment (or, if between leaving that employment and entering the said course of study or training he was engaged in national service, before the end of that service) he gave notice in writing to the authority by whom he was employed of his intention to enter the said course of study or training; and

(ii) the Minister is satisfied that by reason of his having undertaken the said course of study or training the person is better fitted for the duties of his new employment.

PART II

Transfer from Employment in Contributory Service to Employment in Local Government Service

Reckoning of previous service

5.—(1) Where a person without having become entitled to pension under the Teachers Acts other than a return of contributions, becomes employed in local government service within the prescribed period, then, subject to the provisions of this Part of these rules—

(*a*) his recognised service (if any) and his contributory service shall be reckoned as contributing service within the meaning of the Act of 1937 or as service under a local Act scheme or a period of contribution for the purposes of such a scheme:

Provided that contributory service reckonable only for the purpose of calculating the amount of any allowance or gratuity payable to or in respect of him shall be reckonable only for the like purpose under the Act of 1937 or local Act scheme;

(*b*) neither he nor his personal representatives shall be entitled to be repaid a balance of contributions under the Teachers Acts in respect of any service for which a transfer value has been paid or is payable under the provisions of rule 17 of these rules.

(2) In the case of a person to whom this Part of these rules applies a period of contributory service which was originally non-contributing service for the purposes of local government superannuation or for the purposes of regulations made under section 67 of the National Health Service Act, 1946(**a**), or section 66 of the National Health Service (Scotland) Act, 1947(**b**), and became reckonable as contributory service by virtue of Part III of these rules or by virtue of the provisions of such regulations, shall be reckonable in his local government service in the manner and to the extent to which it would be reckonable if in his employment in contributory service he had been a contributory employee.

(3) Where, in the case of a person to whom this Part of these rules applies, any period was reckonable, immediately before he ceased to be employed in

(a) 9 & 10 Geo. 6. c. 81. (b) 10 & 11 Geo. 6. c. 27.

contributory service, as recognised or contributory service for the purpose of determining whether he had served for any minimum period prescribed by the Teachers Acts as necessary for any pension to be paid to or in respect of him, that period shall, to the same extent, be reckonable in his local government service for the purpose of determining whether he has served for the minimum period prescribed by or under the enactment or scheme applicable to him in his employment in local government service for any pension to be paid to or in respect of him.

(4) This Part of these rules shall not apply to a person as aforesaid unless within three months after the date on which he becomes employed in local government service—

(*a*) he notifies in writing the local authority maintaining the superannuation fund to which he is a contributor that he desires this Part of these rules to apply to him and furnishes such local authority with particulars in writing of any national service in which he has been engaged since leaving his employment in contributory service; and

(*b*) he pays to such local authority an amount equal to any sum received by him by way of return of contributions other than voluntary contributions after last ceasing to be employed in contributory service;

Provided that—

(i) for the purposes of the payment for which sub-paragraph (*b*) of this paragraph provides the local authority to whom the payment is due may, in any particular case, allow a longer period;

(ii) nothing in this rule shall affect the application of rule 13 of these rules.

(5) Notwithstanding anything to the contrary in section 57 of the Manchester Corporation Act, 1920(a), this rule shall apply to a person who has been employed in contributory service and has become subject to the superannuation provisions contained in Part VII of that Act.

Recognised and contributory service

6.—(1) For the purposes of this Part of these rules a person shall not be deemed to cease to be employed in contributory service if he ceases to be employed in service which is treated as contributory service by virtue of its being approved external service for the purposes of section 13 of the Act of 1925 or of its being treated under any scheme made under paragraph (*c*) of subsection (1) of section 21 of that Act in the same manner as such approved external service.

(2) Except as provided in paragraph (3) of rule 5 of these rules the expression "recognised service (if any) and his contributory service" shall not include—

(*a*) contributory service under a scheme made under paragraph (*a*) of subsection (1) of section 21 of the Act of 1925 unless, in the case of such service under the Teachers Superannuation (Accepted Schools) Scheme, 1948(b), employment in local government service commenced on or after the 1st October, 1956; or

(*b*) service which is treated as contributory service by virtue of its being approved external service for the purposes of section 13 of the Act of 1925 or of its being treated under any scheme made under paragraph (*c*) of subsection (1) of section 21 of that Act in the same manner as such approved external service; or

(a) 10 & 11 Geo. 5. c. xcvii. (b) S.I. 1948/1740 (Rev. VI, p. 439: 1948 I, p. 760).

(*c*) service before the 1st April, 1926, which by virtue of subsection (2) of section 14 of the Act of 1925 is not reckonable in the calculation of pension payable by the Minister under that Act; or

(*d*) any period of recognised or contributory service in respect of which the person received a return of contributions, not being a return of contributions after last ceasing to be employed in contributory service, which he has not subsequently repaid to the Minister under the proviso to subsection (2) of section 12 of the Act of 1925.

Reckoning of war service and national service

7. Where a person's period of war service within the meaning of the Teachers Superannuation (War Service) Act, 1939(**a**), or period of national service within the meaning of the Teachers Superannuation (National Service) Rules, 1949(**b**), becomes reckonable as contributing service by virtue of these rules but the sum due in respect of contributions in respect of the whole or any part of such war service or national service payable by that person in accordance with the aforesaid Act or the aforesaid first mentioned rules has not been paid to the Minister at the date on which that person becomes employed in local government service then—

(*a*) the right to receive the sum outstanding, which expression shall include any sum due by virtue of subsection (3) of section 2 or paragraph (*b*) of subsection (2) of section 3 of the said Act of 1939, shall be, and is hereby, transferred to the local authority prescribed by sub-paragraph (*b*) of this paragraph; and

(*b*) unless the said sum is paid within three months after the date when that person becomes employed in local government service by that person to the local authority maintaining the superannuation fund to which that person is a contributor at the date of payment, the service in respect of which payment is not made shall not be reckonable as contributing service; any service which, by virtue of this paragraph is not reckonable as contributing service shall be disregarded in calculating a transfer value under rule 17 of these rules and if it has not been disregarded in the transfer value already paid, such transfer value shall be adjusted accordingly:

Provided that for the purposes of the payment for which paragraph (*b*) of this rule provides, the local authority to whom the payment is due may, in any particular case, allow a longer period.

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

8. Where a person to whom this Part of these rules applies was, at the date on which he ceased to be employed in contributory service, in course of making to the Minister payments pursuant to rule 21 of these rules or any similar rule contained in other rules made under sections 2 and 15 of the Act or, as a condition of reckoning past service, payments or contributions under the Teachers Acts additional to the payments or contributions required by section 9 of the Act of 1925 then, if within three months of his entering employment in local government service, or within such longer period as the authority maintaining the superannuation fund to which he is a contributor may allow, he pays to that authority 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 in contributory service—

(**a**) 2 & 3 Geo. 6. c. 95. (**b**) S.I. 1949/468 (1949 I, p. 1533).

(*a*) he shall be entitled in continuation of payments made in respect of added years to make payments to the aforesaid authority in the manner in which those payments would have been payable to the Minister if the person had remained in employment in contributory service and 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 employment in local government service under regulation 12 of the benefits regulations or, if in his employment in local government service 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) Regulations, 1954(a), as are contained in that scheme;

(*b*) he shall be entitled in continuation of other payments (except payments referred to in sub-paragraph (*a*) of this paragraph) to make payments and, in respect of the service in respect of which the payments were being made, shall enjoy rights and be subject to liabilities, as if in his previous employment he had been instead of a person employed in contributory service, a local Act contributor;

(*c*) he shall be entitled to continue payments which were being made under the Teachers Acts as a condition of reckoning past service and, subject to his completing the payments which he is required to make in respect of such service he shall be entitled to reckon the service in respect of which the payments were being made in the manner in which that service would have been reckonable if he had completed the payments before ceasing to be employed in contributory service.

Reckoning of service as a Teacher with the armed forces

9. Royal Air Force Teaching Service, Royal Navy Teaching Service and service as a civilian teacher in an Army children's school which is reckoned as recognised or contributory service at one-and-a-half times its actual length under schemes made on the 2nd May, 1930 and the 23rd May, 1956 under paragraph (*b*) of subsection (1) of section 21 of the Act of 1925 shall be computed in like manner for the purposes of this Part of these rules, but not so as to affect the ascertainment of average remuneration.

Additional payments to certain educational organisers

10. In the case of an Organiser any part of whose services before the 1st April, 1926, is, by virtue of subsection (2) of section 14 of the Act of 1925 and of this Part of these rules, not reckonable in the calculation of pension granted to him when he ceases to be employed in local government service, the local education authority by whom he was last employed in contributory service may pay to or in respect of him the amounts by which the said pension would have been increased if his service before the said date had been treated as recognised service.

As to Teachers who were formerly poor law officers

11. In the case of a person who becomes subject to the provisions of this Part of these rules, paragraph (*c*) of subsection (5) of section 124 of the Local Government Act, 1929(b), shall have effect as if any pension payable to or in respect of him were payable to or in respect of him under Part II of the Act of 1925.

Modification of benefits and obligations in relation to the National Insurance Acts

12.—(1) The modification for which the Local Government Modification Regulations provide shall not apply to any person to whom this Part of

(a) S.I. 1954/1211 (1954 II, p. 1676). (b) 19 & 20 Geo. 5. c. 17.

these rules applies if the modifications for which the Teachers Modification Regulations provide did not apply in his case at the date when he ceased to be in contributory service.

(2) Without prejudice to the operation of the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 Regulations, 1961, the Local Government Modification Regulations shall apply to any other person to whom this Part of these rules applies as if any service which he becomes entitled to reckon under paragraph (1) of rule 5 of these rules, being service of which account would have been taken under the Teachers Modification Regulations for the purpose of reducing any benefit to which that person might have become entitled under the Teachers Acts had he continued to be subject thereto, were service for the purposes of the Acts of 1937 to 1953 or service for the purposes of the local Act scheme, as the case may be, rendered on or after the 5th July, 1948; and if the Teachers Modification Regulations modified any benefit to which he might have become entitled under the Teachers Acts by reference to a Table and to his age at a given date, the Local Government Modification 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 this 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 purpose of the Teachers Modification Regulations.

Section 17 of the Act of 1937 not to apply

13.—(1) Subsection (1) of section 17 of the Act of 1937, which provides for the reckoning of service of a teacher who becomes a contributory employee, shall not apply to the recognised or contributory service of any person who having been employed in recognised or contributory service becomes employed in local government service.

(2) Where subsection (1) of section 17 of the Act of 1937 has ceased to apply to the recognised or contributory service of a person by virtue of paragraph (1) of this rule that service shall not be reckonable for any purpose of the Acts of 1937 to 1953 or a local Act scheme otherwise than by virtue of these rules.

Computation of contributions of a person to whom rule 5 applies

14.—(1) Where a person to whom this Part of these rules applies ceases to be employed in local government service, or dies, in circumstances in which under the relevant superannuation provisions 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 Acts of 1937 to 1953 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 Teachers Acts, if, on his ceasing to be employed in contributory service, 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 compound interest thereon, compound interest shall

also be payable in respect of the amount by which these 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 service, at the rate at which it would have been calculated under the Teachers Acts if on ceasing to be employed in contributory service he had been entitled to a return of contributions together with compound interest thereon; and

(*b*) as respects the period beginning with the date on which he became employed in local government service, 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) 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 in contributory service, were returned to and retained by him; or

(*c*) any amount in respect of voluntary contributions which, being payments to which rule 8 of these rules applied, have not been continued in pursuance of that rule.

Reckoning of service where Part III of the rules does not apply

15. Where a person to whom this Part of these rules applies ceases to be employed in local government service and becomes employed in contributory service in circumstances in which Part III of these rules does not apply to him, any service in respect of which a transfer value was paid under rule 17 of these rules shall be treated under the Teachers Acts as qualifying service.

Decision of questions and appeals

16. The provisions of section 35 of the Act of 1937, which relate to the decision of questions by local authorities and appeals to the Minister of Housing and Local Government 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 this Part of these rules applies to him as if the reference in that section to regulations made under that Act included a reference to these rules.

Transfer values payable by the Minister of Education

17.—(1) The Minister shall, as respects a person to whom this Part of these rules applies, pay to the authority maintaining the superannuation fund to which that person first becomes a contributor after ceasing to be employed in contributory service a transfer value of an amount equal to the transfer value which would have been payable under the transfer value regulations if that person, at the date when he ceased to be employed in contributory service, had ceased to be a contributory employee or a local Act contributor under one local authority and had been entitled to reckon such service as is reckonable under rule 5 of these rules and had become a contributory employee or local Act contributor under another local authority:

Provided that the transfer value payable in respect of a person to whom paragraph (2) of rule 4 of these rules applies, being a person who since ceasing to be employed in contributory service and before becoming employed

in local government service has undergone a course of study or training shall be calculated by reference to his age at the date when he becomes employed in local government service.

(2) In calculating the transfer value any service reckonable as non-contributing service by virtue of paragraph (2) of rule 5 of these rules shall be treated as non-contributing service.

PART III

Transfer from Employment in Local Government Service to Employment in Contributory Service

Reckoning of previous service

18.—(1) Where, within the prescribed period, a person, without having become entitled to pension under the Acts of 1937 to 1953 or a local Act scheme other than a return of contributions, becomes employed in contributory service, not being service which is treated as contributory service by virtue of its being approved external service for the purposes of section 13 of the Act of 1925 or of its being treated under any scheme made under paragraph (*c*) of subsection (1) of section 21 of that Act in the same manner as such approved external service, then, subject to the provisions of this Part of these rules—

(*a*) the period of his service which is reckonable at the time of his ceasing to be employed in local government service as contributing service or as service or a period of contribution for the purposes of a local Act scheme and any period of national service after so ceasing to be employed in local government service which would have been reckonable as aforesaid had the person again become employed in local government service on the termination of his national service, shall be reckoned as contributory service under the Teachers Acts:

Provided that service reckonable only for the purpose of calculating the amount of any allowance or gratuity payable to or in respect of him shall be reckonable only for the like purpose under the Teachers Acts;

(*b*) the period of his service (if any) which is reckonable at the time of his ceasing to be employed in local government service as non-contributing service shall, as to one-half thereof, be reckoned as contributory service under the Teachers Acts; and

(*c*) notwithstanding anything in the Act of 1937 or the local Act scheme no payment shall be made thereunder by way of return of contributions other than voluntary contributions to him or his personal representatives.

(2) Notwithstanding the provisions of sub-paragraph (*b*) of the last foregoing paragraph, such part of a person's service as is mentioned in that sub-paragraph shall be reckoned, as to the whole period thereof, as contributory service for the purpose of—

(*a*) determining whether he has completed the period of contributory service required by the Teachers Acts as necessary for any pension to be paid to or in respect of him; or

(*b*) calculating his average salary under the provisions of subsection (2) of section 10 of the Act of 1925.

(3) Where part of the person's service, not being a part to which any of the preceding provisions of this rule relate, is reckonable at the time of his ceasing to be employed in local government service for the purpose of determining whether he is eligible to receive a pension but not for calculating

the amount thereof, account shall be taken of that part for the purpose of determining whether the person has served for any minimum period prescribed by the Teachers Acts as necessary for any pension to be paid to or in respect of him and for no other purpose.

(4) A person shall not be entitled by virtue of this Part of these rules to reckon as contributory service under the Teachers Acts—

(*a*) any service which he is or was entitled to reckon as contributing or non-contributing service by virtue of section 17 of the Act of 1937 or the corresponding provisions of a local Act scheme if that service is reckonable as recognised or contributory service otherwise than by virtue of these rules; or

(*b*) any service which in his case is deemed to be service to which the said section 17 applies by virtue of the Local Government Superannuation (England and Scotland) Regulations, 1948(a), if that service is reckonable as service under the Teachers Superannuation (Scotland) Regulations, 1957(b); or

(*c*) any service which is the subject of a direction under subsection (3) of section 17 of the Act of 1953 that all rights enjoyed by or in respect of the person with respect to that service shall be forfeited.

(5) This Part of these rules shall not apply to a person as aforesaid unless within three months after the date on which he becomes employed in contributory service—

(*a*) he notifies the Minister that he desires this Part of these rules to apply to him and furnishes the Minister with particulars of any national service in which he has been engaged since he left his previous employment; and

(*b*) he pays to the Minister an amount equal to any sum received by him by way of return of contributions other than voluntary contributions after last ceasing to be employed in local government service:

Provided that for the purposes of the payment for which sub-paragraph (*b*) of this paragraph provides the Minister may, in any particular case, allow a longer period.

(6) This Part of these rules 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 he was a person to whom Part III of the Superannuation (Teaching and Local Government) Rules, 1950, would have applied had these rules not been made or unless the local authority maintaining the fund to which he was a contributor consent.

Part-time service

19. Where a person to whom this Part of these rules applies has, during his employment in local government service, been employed as a part-time employee, the period of his part-time service shall be treated—

(*a*) for the purpose of determining whether the person has served for any minimum period prescribed by the Teachers Acts as necessary for any pension to be paid to or in respect of him as if it were whole-time service; and

(*b*) for the purpose of calculating the amount of any pension payable under the Teachers Acts, as if it were whole-time service for a proportionately reduced period.

(a) S.I. 1948/1131 (Rev. XVII, p. 813: 1948 I, p. 3304).
(b) S.I. 1957/356 (s. 17) (1957 I, p. 733).

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

20. In taking account under rule 18 of these rules of any service, or period of contribution for the purposes of a local Act scheme, regard shall be had to the provisions of the next succeeding rule.

21.—(1) Where a person to whom this Part of these rules applies was, at the time when he ceased to be employed in local government service, 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 contributing service for the purposes of the Act of 1937 or as service or a period of contribution for the purposes of a local Act scheme, or as a condition of increasing the length at which the said service would be reckonable for the purpose of calculating a pension under the Acts of 1937 to 1953 or a local Act scheme, he shall be entitled to elect to continue those payments in the manner provided by this paragraph and—

(i) if he does so elect and within three months of his entering employment in contributory service or within such longer period as the Minister may in any particular case allow, he pays to the Minister a sum equal to any sum paid to him by way of return of such payments on or after ceasing to be employed in his local government service—

(*a*) he shall be liable to pay the outstanding payments to the Minister in the manner in which they would have been payable by him if he had remained in local government service; and

(*b*) the service in respect of which they are made shall be reckonable for the purposes of the Teachers Acts in the manner in which it would by virtue of these rules have been reckonable if, immediately before he ceased to be employed in local government service, he had been under no further liability in respect of such payments;

(ii) if he does not so elect or if he fails to pay any sum payable to the Minister under sub-paragraph (i) of this paragraph, then, for the purposes of the Teachers Acts, account shall be taken of the service in respect of which the payments were being made only to the extent if any, to which, by virtue of these rules, account would have been taken of that service if he had not been in the course of making such payments as aforesaid in respect thereof at the time when he ceased to be employed in local government service.

(2) Where a person to whom this Part of these rules applies was, at the time when he ceased to be employed in local government service, in the course of making payments in respect of added years, he shall be entitled to elect to continue to make the like payments to the Minister in respect of the said added years as he would have been liable to make to the authority maintaining the superannuation fund to which he was last a contributor and, if he does so elect and within three months of his entering employment in contributory service or within such longer period as the Minister may in any particular case allow, he pays to the Minister a sum

equal to any sum paid to him by way of return of any such payments on or after ceasing to be employed in local government service, he shall be liable to make payments to the Minister in respect of the said added years in the manner in which and at the times at which he would have been liable to make them under the superannuation provisions which were applicable to him in his local government service and, if he makes those payments, shall be entitled to have the added years reckoned for the purposes of the Teachers Acts as contributory service:

Provided that the said added years shall not be reckonable for the purposes of the Teachers Acts if the person ceased to be employed in local government service in such circumstances that in consequence of a resolution of the authority by whose consent the added years first became reckonable he ceased to be entitled to reckon the added years.

Service reckoned at a fraction of its actual length for purposes of rule 28

22. Subject as provided by the next following rule, where by virtue of a scheme modifying the Act of 1937 any period of service of a person is reckoned at a fraction of its actual length for the purpose of calculating the transfer value payable under rule 28 of these rules, then, for the purpose of assessing the pension payable to or in respect of him under the Teachers Acts, only that fraction of that period of service shall be reckoned as contributory service.

Exercise by local authority of discretionary powers to increase benefits

23.—(1) The local authority by whom a person to whom this Part of these rules applies was last employed may, within three months after the date on which they are informed by the Minister of the person's notification that he desires these rules to apply to him, exercise in relation to him any discretion which, with a view to increasing the pension 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 made 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 ceased to be employed in local government service, 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 pension payable to the person otherwise than by any notional increase or extension of the service reckonable for the purpose of calculating that pension 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 pension 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 rule 28 of these rules is increased in consequence of the exercise by a local authority of any power conferred upon them by paragraph (1) of this rule, that authority shall pay the amount of the said increase to the superannuation fund out of which the transfer value is payable.

Computation of contributions of a person to whom rule 18 *applies*

24. Where a person to whom this Part of these rules applies ceases to be employed in contributory service or dies, then, in computing the sum to which he or his personal representatives shall be entitled under section 12 of the Act of 1925, there shall be included a sum in respect of contributions paid or any additional contributory payments made by him in respect of service which by virtue of these rules has become reckonable as contributory service, and in computing the amount of the sum so included—

(*a*) as respects the period ending immediately before the date on which he became employed in contributory service, compound interest shall be calculated in the manner in which it would have been calculated if he had received a return of contributions immediately before that date; and

(*b*) as respects the period beginning with that date, compound interest shall be calculated in accordance with the provisions of section 12 of the Act of 1925.

Modification of benefits and obligations in relation to the National Insurance Acts

25.—(1) The modifications for which the Teachers Modification Regulations provide shall not apply to any person to whom this Part of these rules applies if on the date when he ceased to be employed in local government service the contributions payable by him as a contributory employee or local Act contributor were not subject to reduction in connection with the passing of the National Insurance Act, 1946(a).

(2) The Teachers Modification Regulations shall, subject to the provisions of the next succeeding paragraph, apply to any other person to whom this part of these rules applies as if any service which he becomes entitled to reckon as contributory service under paragraph (1) of rule 18 of these rules, being such service as is described in paragraph (4) of this rule, were contributory service in respect of which he was subject to the provisions of the Teachers Modification Regulations relating to new entrants.

(3) If the Local Government Modification Regulations modified, or would but for the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 Regulations, 1961, have modified, any benefit to which he might have become entitled under regulations made under the Acts of 1937 to 1953 or the local Act scheme by reference to a table and to his age at a given date, the Teachers Modification Regulations shall apply to him as they apply to an existing teacher within the meaning of those regulations except that the reference to his age at a given date shall be construed as a reference to his age at the date which was relevant for the purposes of the Local Government Modification Regulations.

(4) The service referred to in paragraph (2) of this rule is service of which account would have been taken, or would, but for the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 Regulations, 1961, have been taken for the purpose of reducing any

(a) 9 & 10 Geo. 6. c. 67.

benefit to which the person might have become entitled under the Acts of 1937 to 1953 or the local Act scheme had he remained in local government service.

Date of becoming employed in contributory service

26. For the purposes of paragraph (*c*) of subsection (1) of section 3 of the Act of 1925 as amended by section 8 of the Act, any date on which a person to whom this Part of these rules applies became employed in local government service shall be deemed to be a date on which he became employed in contributory service.

Local Government Service not to be reckoned as contributory service for purposes of section 2 (1) (a) (iv) of Act of 1925

27. The provisions of sub-paragraph (iv) of paragraph (*a*) of subsection (1) of section 2 of the Act of 1925 which prevent the Minister from determining certain service as recognised service unless the teacher in question has been employed in some other form of recognised or contributory service for not less than ten years shall be read as if the reference to "contributory service" did not include local government service which becomes reckonable as contributory service by virtue of this Part of these rules.

Transfer values payable to the Minister of Education

28.—(1) As respects a person to whom this Part of these rules applies there shall be paid to the Minister out of the superannuation fund to which the person was last a contributor before becoming employed in contributory service by the authority maintaining that fund a transfer value of an amount equal to the transfer value which would have been payable under the transfer value regulations if on ceasing to be a contributory employee or local Act contributor the person had become such an employee or contributor under another local authority, 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:

Provided that—

(*a*) the transfer value payable under this rule shall be calculated as if the words "not being such service as is mentioned in proviso (*a*) to that subsection" had been omitted from paragraph (*a*) of the definition of "service" in paragraph 1 of the First Schedule to the transfer value regulations, and 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 transfer value regulations; and

(*b*) the transfer value payable in respect of a person to whom paragraph (2) of rule 4 of these rules applies, being a person who, since ceasing to be employed in local government service and before becoming employed in contributory service, has undergone a course of study or training, shall be calculated by reference to his age at the date when he became employed in contributory service; and

(*c*) where the person had before entering local government service been an established officer or servant within the meaning of the Act of 1909, and had been a person to whom any regulations for the time being in force under Part V of the Second Schedule to the Act of 1937 had been applicable and where 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 service, 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 (as defined in paragraph (15) of regulation 56 of the National Health Service (Superannuation) Regulations, 1950(a)), shall make a payment to the authority maintaining the superannuation fund to which the person was last a contributor of an amount equal to the transfer value which that body or the appropriate authority would have been liable to pay to the Minister of Health under paragraph (4) of that regulation if those regulations had become applicable to the person on the date when he became employed in contributory service, and where that body would in such circumstances as aforesaid 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 (as defined as aforesaid) shall make a payment to the authority maintaining the superannuation fund to which the person was last a contributor of an amount equal to the transfer value which that other body or the appropriate authority would have been liable to pay to the Minister of Health under paragraph (5) of that regulation, if those regulations had become applicable to the person on the date when he became employed in contributory service.

(2) All sums received by the Minister under these rules whether by way of transfer value or otherwise shall be paid into the Exchequer.

(3) When paying a transfer value in pursuance of this rule the local authority shall furnish to the Minister and to the person in respect of whom a transfer value is paid the like particulars relating to the person's previous pensionable service as would have been given to the person if instead of becoming employed in contributory service he had become employed in local government service.

PART IV

Treatment of Local Government Service as Approved External Service

29.—(1) The service which a person is entitled to reckon for the purposes of the Acts of 1937 to 1953 or a local Act scheme, being service rendered to a local or other public authority, shall (unless he claims that it shall not be so treated) be treated as approved external service for the purposes of section 13 of the Act of 1925 as if it were employment of the kind referred to in paragraph (*b*) of subsection (1) of that section—

(*a*) if that person is a person to whom Part II of these rules applies and has been employed in contributory service under a scheme made under paragraph (*a*) of subsection (1) of section 21 of the Act of 1925 at any time before becoming employed in local government service, in which case his service so treated as approved external service shall include his recognised or contributory service in respect of which a transfer value is paid by the Minister under rule 17 of these rules, or

(*b*) if that person is a person to whom Part II of these rules does not apply, whether by reason of the fact that he has not given notice to the local authority in accordance with sub-paragraph (*a*) of paragraph (4) of

(a) S.I. 1950/497 (1950 I, p. 1327).

rule 5 of these rules or otherwise, but has been employed in recognised or contributory service whether under a scheme as aforesaid or otherwise at any time before becoming employed in local government service.

(2) Where service is treated as approved external service by virtue of this rule no period of such service shall be deemed to be contributory service in determining for the purposes of sub-paragraph (iv) of paragraph (*a*) of subsection (1) of section 2 of the Act of 1925 whether a teacher has been employed in some other form of contributory service.

(3) Service which is treated as approved external service by virtue of this rule shall not be deemed to be—

(*a*) contributory service for the purposes of the proviso to subsection (2) of section 12 of the Act of 1925 ; or

(*b*) recognised or contributory service for the purpose of calculating the average salary of a teacher under the provisions of Part II of the Act of 1925.

(4) Nothing in the foregoing provisions of this rule shall render any pension payable in respect of any period before the 17th July, 1950.

Concur

David Gibson-Watt,

John Hill,

Two of the Lords Commissioners of Her Majesty's Treasury, this second day of October, nineteen hundred and sixty-one.

Given under the official seal of the Minister of Education this third day of October, nineteen hundred and sixty-one.

(L.S.)

David Eccles,

Minister of Education.

Given under the official seal of the Minister of Housing and Local Government this third day of October, nineteen hundred and sixty-one.

(L.S.)

Henry Brooke,

Minister of Housing and Local Government.

EXPLANATORY NOTE

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

The Rules make provision for the preservation of the superannuation rights of persons transferring between pensionable employment under the Teachers' (Superannuation) Acts and pensionable local government employment. The Rules replace (with amendments which, in the main, are consequential on changes in superannuation law) similar provisions of the Superannuation (Teaching and Local Government) Rules, 1950.

Part I of the Rules contains definitions of terms used in the Rules, including definition of " the prescribed time limit ", which is the time within which movement from one pensionable employment to another must take place if the person concerned is not to lose the right to reckon in the second employment the service which was reckonable when he left the first employment. This limit is usually twelve months, or, where the employee immediately after leaving his first employment became engaged in National Service, six months after the completion of that service ; but that period can be extended to allow for time spent on a course of study or training if the local authority or the Minister of Education, as the case may be, is satisfied that by reason of having undertaken the course the person is better fitted for the duties of his new employment.

Part II provides that the pensionable teaching service of any person moving to local government employment is to be reckoned for pension purposes under the Local Government Superannuation Acts. The Minister of Education is required to pay to the local authority concerned an appropriate transfer value.

Part III provides conversely that the pensionable local government service of any person moving to teaching employment is to be reckoned for pension purposes under the Teachers' (Superannuation) Acts. The local authority concerned is required to pay to the Minister of Education an appropriate transfer value.

The Rules apply (subject to the requirements of Section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948) in the case of a person who enters one employment after the date of coming into operation of the Rules, having left his previous employment before that date, but otherwise are not retrospective.