STATUTORY INSTRUMENTS

1970 No. 1646

PENSIONS

The Superannuation (Teaching and Local Government) Interchange Rules 1970

Made - - -	*4th November* 1970
Laid before Parliament	*18th November* 1970
Coming into Operation	*19th November* 1970

ARRANGEMENT OF RULES

PART I

GENERAL

1. Citation and Commencement.
2. Revocation.
3. Interpretation.
4. Prescribed Period.

PART II

TRANSFER FROM TEACHING SERVICE TO LOCAL GOVERNMENT EMPLOYMENT

5. Application.
6. Excepted Cases.
7. Transfer Value.
8. Reckoning of Service.
9. Voluntary Contributions.
10. Computation of Contributions.
11. Benefits under Teachers' Regulations.
12. Provisions relating to National Insurance.
13. Questions and Appeals.

PART III

TRANSFER FROM LOCAL GOVERNMENT EMPLOYMENT TO TEACHING SERVICE

14. Application.
15. Excepted Cases.
16. Discretionary Increase of Benefits.

17. Transfer Value.
18. Supplementary Provisions as to Transfer Value.
19. Reckoning of Service.
20. Voluntary Contributions.
21. Commencement of Employment.
22. Computation of Contributions.
23. Benefits under Acts or Scheme.
24. Provisions relating to National Insurance.

PART IV

MISCELLANEOUS

25. Designated Employees.
26. Exclusion of Section 17 of Act of 1937.
27. Application of Section 11(3) of Act of 1953.

The Secretary of State for Education and Science, with the consent of the Minister for the Civil Service, and the Minister of Housing and Local Government, acting jointly in exercise of the powers conferred on them by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act 1948(**a**), as amended by section 11 of the Superannuation (Miscellaneous Provisions) Act 1967(**b**) and as read with the Minister for the Civil Service Order 1968(**c**), hereby make the following Rules :—

PART I

GENERAL

Citation and Commencement

1. These Rules may be cited as the Superannuation (Teaching and Local Government) Interchange Rules 1970 and shall come into operation on 19th November 1970.

Revocation

2.—(1) The Superannuation (Teaching and Local Government) Interchange Rules 1961(**d**) are hereby revoked.

(2) Section 38(2) of the Interpretation Act 1889(**e**) (which relates to the effect of repeals) shall have effect in relation to the Rules hereby revoked as if both they and these Rules were Acts of Parliament.

Interpretation

3.—(1) In these Rules, unless the context otherwise requires—

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

"the Act of 1909" means the Asylums' Officers' Superannuation Act 1909(**f**) ;

(**a**) 1948 c. 33.
(**b**) 1967 c. 28.
(**c**) S.I. 1968/1656 (1968 III, p. 4485).
(**d**) S.I. 1961/1895 (1961 III, p. 3556).
(**e**) 1889 c. 63.
(**f**) 1909 c. 48.

"the Act of 1937" means the Local Government Superannuation Act 1937(**a**) ;

"the Act of 1953" means the Local Government Superannuation Act 1953(**b**) ;

"the Acts of 1937 to 1953" means the Local Government Superannuation Acts 1937 to 1953(**c**) ;

"added years" means, in relation to local government employment, any additional years of service reckonable 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 Schedule 3 or 4 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 interchange rules ;

"the Benefits Regulations" means the Local Government Superannuation (Benefits) Regulations 1954(**d**) ;

"fund authority" means the local authority maintaining the superannuation fund to which a person first becomes a contributor after ceasing to be employed in teaching service or, as the case may be, was last a contributor before he became employed in teaching service ;

"interchange rules" means rules made under section 2 of the Act of 1948 (which provides for the pensions of persons transferring to different employment) and includes provisions similar to those of such rules contained in any instrument made under any other Act ;

"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 within the meaning of the Act of 1937 ;

"Local Government Modification Regulations" means the National Insurance (Modification of Local Government Superannuation Schemes) Regulations 1969(**e**) ;

"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(**f**) and any similar service immediately following relevant service entered into with the consent of the authority or person by whom he was last employed before undertaking that service or, in the case of a person who holds an appointment, to an office and is not employed under a contract of employment, with the consent of the authority by whom he was appointed ;

"operative date" means the date of the coming into operation of these Rules ;

"pension" has the meaning assigned to it by the Act of 1948 ;

"prescribed period" has the meaning assigned to that expression by rule 4;

"reckonable service" means reckonable service within the meaning of the Teachers' Superanuation Act 1967(**g**) ;

"repaid contributions" means any sum paid to a person under the Teachers (Superannuation) Acts 1918 to 1956, the Teachers' Regulations, the Acts of 1937 to 1953 or a local Act scheme by way of repayment or return of contributions (other than voluntary contributions and contributions made or

(**a**) 1937 c. 68.
(**b**) 1953 c. 25.
(**c**) 1937 c. 68; 1939 c. 18; 1953 c. 25.
(**d**) S.I. 1954/1048 (1954 II, p. 1595).
(**e**) S.I. 1969/793 (1969 II, p. 2227).
(**f**) 1951 c. 65.
(**g**) 1967 c. 12.

deemed to be made for the purpose of securing benefits for a widow, children or other dependants); and includes both any interest included in such sum and any amount deducted therefrom in respect of liability to income tax arising by reason of its payment;

"the Secretary of State" means the Secretary of State for Education and Science;

"the Teachers' Regulations" means the Teachers' Superannuation Regulations 1967 to 1970(a); and "the principal Teachers' Regulations" means the Teachers' Superannuation Regulations 1967;

"teaching service" means—

(*a*) reckonable service; and

(*b*) service which for the purposes of the Teachers' Regulations is service as an organiser, a teacher in an admitted school, a services civilian teacher, a services education officer or a part-time teacher;

"the Transfer Value Regulations" means the Local Government Superannuation (Transfer Value) Regulations 1954(b);

"voluntary contributions" means—

(*a*) in relation to employment in teaching service, additional contributions being paid under section 19 of the Teachers (Superannuation) Act 1956(c) or regulation 32 of the principal Teachers' Regulations in respect of a period of previous employment and any contributions being paid as a condition of any other period (not being a period of war service within the meaning of the Teachers' Superannuation (War Service) Act 1939(d) or of national service) being reckoned as reckonable service; and

(*b*) in relation to local government employment, 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—

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

(ii) 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;

(iii) 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; and

(iv) any payments made in respect of added years.

(2) Other expressions which have meanings assigned to them by the Acts of 1937 to 1953 or the Teachers' Regulations have, unless the context otherwise requires, the same respective meanings for the purposes of these Rules.

(3) For the purposes of these Rules a justices' clerk shall be deemed to be in the employment of the magistrates' courts committee or committee of magistrates by whom he is, or under the provisions of any enactment is deemed to

(a) S.I. 1967/489, 948, 1286, 1968/1353, 1969/80, 1970/10, 1970/753 (1967 I, p. 1562; II, p. 2904; II, p. 3721; 1968 II, p. 3753; 1969 I, p. 241; 1970 I, p. 11; II, p. 2394).
(b) S.I. 1954/1212 (1954 II, p. 1723). (c) 1956 c. 53.
(d) 1939 c. 95.

have been, appointed ; and in relation to a justices' clerk references to "employment" shall be construed accordingly.

(4) Any reference in these Rules to the provisions of any enactment, rules, regulations or other instrument shall, unless the context otherwise requires, be construed as a reference to those provisions as amended, modified, extended, applied or re-enacted by any subsequent enactment, rules, regulations or instrument.

(5) Unless the context otherwise requires, any reference in these Rules to a rule, Part or paragraph shall be construed as a reference to that rule or Part of these Rules or to that paragraph of the rule in which the reference occurs, as the case may be.

(6) The Interpretation Act 1889(**a**) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

Prescribed Period

4.—(1) For the purposes of these Rules, subject as hereafter in this rule provided, the expression "prescribed period" shall mean—

(*a*) in the case of a person who, immediately after ceasing to be employed in teaching service or local government employment became engaged in national service, a period of six months after the date of termination of the national service ;

(*b*) in the case of a person to whom section 6 of the Act of 1948 has become applicable, a period of five years after the date on which he ceased to be employed in local government employment or such longer period as the Minister of Housing and Local Government may in any particular case allow ; and

(*c*) in the case of any other person, a period of twelve months after the date on which he ceased to be employed in teaching service or local government employment.

(2) The Secretary of State in the case of a person entering teaching service and the fund authority in the case of a person entering local government employment may, with the agreement of the other, extend the period of six months or twelve months, whichever is appropriate, specified in paragraph (1).

(3) Subject as in paragraph (4) provided—

(*a*) in reckoning the period of six months and twelve months specified in paragraph (1) no account shall be taken of any period spent by a person on a course of study or training which he undertook after leaving his former employment ; and

(*b*) if a person left his former employment in order to undertake 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 paragraph (1) to have left his former employment at the time when he completed the said course of study or training.

(4) The provisions of paragraph (3) shall not apply to a person who in his new employment is in local government employment unless the authority employing him are satisfied, or to a person who in his new employment is in

(**a**) 1889 c. 63.

teaching service unless the Secretary of State is 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.

PART II

TRANSFER FROM TEACHING SERVICE TO LOCAL GOVERNMENT EMPLOYMENT

Application

5.—(1) Except as in rule 6 provided, this Part shall apply to a person who—

(*a*) enters, or since the beginning of April 1967 has entered, local government employment within the prescribed period after ceasing to be employed in teaching service ;

(*b*) before or within three months after entering local government employment or six months after the operative date, whichever period shall last expire, or within such longer period as the fund authority may with the agreement of the Secretary of State in any particular case allow, notifies that authority in writing that he desires this Part to apply to him and furnishes that authority with particulars in writing of any national service in which he has been engaged since ceasing to be employed in teaching service ; and

(*c*) within three months after entering local government employment or six months after the operative date, whichever period shall last expire, or within such longer period as the fund authority may in any particular case allow, pays to that authority an amount equal to any repaid contributions paid to him after he last ceased to be employed in teaching service, together with any compound interest thereon payable in accordance with paragraph (2).

(2) For the purposes of paragraph (1)(*c*)—

(*a*) compound interest shall be paid where the prescribed period exceeds twelve months and shall be calculated on the amount of the repaid contributions at the rate of three per cent. per annum with half-yearly rests from the day twelve months after that on which the person ceased to be employed in teaching service or from the day on which repaid contributions were paid to him, whichever shall be the later, to the day on which he notified the fund authority as required by paragraph (1)(*b*); and

(*b*) if the amount of compound interest calculated as aforesaid exceeds a sum equal to one half of the difference between the amount of the transfer value payable under rule 7 and the amount of the transfer value which would have been so payable if calculated by reference to the person's age on ceasing to be employed in teaching service, it shall be reduced to that sum.

Excepted Cases

6. This Part shall not apply to a person who—

(*a*) has received payment of any pension (other than repaid contributions) under the Teachers (Superannuation) Acts 1918 to 1956 or the Teachers' Regulations ; or

(*b*) is a person in respect of whom a transfer value has been paid otherwise than under these Rules by the Secretary of State since he last ceased to be employed in teaching service.

Transfer Value

7.—(1) In respect of a person to whom this Part applies the Secretary of State shall, out of moneys provided by Parliament, pay to the fund authority a transfer value of an amount calculated in accordance with the following provisions of this rule.

(2) Subject as hereafter in this rule provided, the transfer value shall be an amount equal to the transfer value which would have been payable under the Transfer Value Regulations if the person, at the date when he ceased to be employed in teaching service, had ceased to be a contributory employee under one local authority and had become such an employee under another local authority in the circumstances described in section 29 of the Act of 1937 and had been entitled to reckon as contributing service his reckonable service and his service reckonable for the purposes of Parts VII, IX and X of the principal Teachers' Regulations at the length at which it is so reckonable.

(3) For the purpose of calculating the amount of a transfer value any period of service which, having originally been non-contributing service or non-contributing service 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**), became reckonable as reckonable service by virtue of interchange rules shall be treated as non-contributing service.

(4) In calculating the amount of a transfer value there shall be excluded—

(*a*) any period of war service within the meaning of the Teachers Superannuation (War Service) Act 1939 and of national service within the meaning of the Teachers Superannuation (National Service) Rules 1949(**c**) in respect of which, at the time the transfer value is paid, the contributions remain unpaid ; and

(*b*) any period of previous employment and any period additional to actual service in respect of which the person was immediately before ceasing to be employed in teaching service paying voluntary contributions and in respect of which, at the time the transfer value is paid, he has not elected to continue to pay such contributions.

(5) The amount of the transfer value payable in respect of a person shall be calculated by reference to his age—

(*a*) on the operative date if, having ceased to be employed in teaching service more than twelve months before that date, he entered local government employment before that date ; or

(*b*) on the date on which he entered local government employment if that date is on or after the operative date and more than twelve months after that on which he ceased to be employed in teaching service.

(6) The amount of the transfer value payable in respect of any person shall be reduced by an amount equal to any compound interest payable by him in accordance with rule 5(2).

Reckoning of Service

8.—(1) Subject as hereafter in this rule provided, so much service as is taken into account as contributing service under rule 7 for the purpose of calculating the amount of the transfer value payable in respect of a person shall be

(**a**) 1946 c. 81. (**b**) 1947 c. 27.
(**c**) S.I. 1949/468 (1949 I, p. 1533).

reckoned as contributing service or as service under a local Act scheme or a period of contribution for the purposes of such a scheme.

(2) So much service as is taken into account as non-contributing service under rule 7 for the purpose of calculating the amount of the transfer value payable in respect of a person shall be reckoned as non-contributing service or, for the purpose of a local Act scheme, in the manner and to the extent to which it would have been reckonable if in his employment in teaching service he had been a contributory employee.

(3) Any service of a person to whom this Part applies which under the Teachers' Regulations is reckonable only for the purpose of calculating the amount of any pension payable to or in respect of him or only for the purpose of determining whether he is entitled to any pension shall be reckoned only for the corresponding like purpose under the Acts of 1937 to 1953 or a local Act scheme.

(4) Except as in this rule before provided, a person to whom this Part 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 non-contributing service any service as referred to therein prior to the date on which he became employed in teaching service if a transfer value has been paid in respect of that service under rule 17 or under any corresponding provision contained in interchange rules or if a transfer of assets in respect of his local government pension rights has been made out of a local authority's superannuation fund under any enactment.

Voluntary Contributions

9.—(1) A person to whom this Part applies may elect to continue to pay voluntary contributions being paid by him immediately before ceasing to be employed in teaching service.

(2) If a person elects as aforesaid and—

(*a*) within three months of becoming employed in local government employment, or within such longer period as the fund authority may in any particular case allow, pays to that authority a sum equal to the aggregate of any sum paid to him by way of return of voluntary contributions on or after ceasing to be employed in teaching service, any interest added thereto and any amount deducted therefrom in respect of liability to income tax by reason of the payment ; and

(*b*) thereafter pays to that authority any amounts outstanding in respect of those voluntary contributions as they would have been payable if he had remained in teaching service

his local government employment shall be affected in the manner prescribed by the following provisions of this rule.

(3) In respect of voluntary contributions made in respect of any period of previous employment and any period additional to actual service, the person shall enjoy rights and be subject to liabilities as if any such period were added years in respect of which payments are being made in his local government employment under regulation 12 of the Benefits Regulations or, if in his local government employment 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.

(**a**) S.I. 1954/1211 (1954 I, p. 1676).

(4) In respect of voluntary contributions other than those to which paragraph (3) applies, the person shall be treated as if those contributions had been completed immediately before he ceased to be employed in teaching service.

Computation of Contributions

10.—(1) Where a person to whom this Part applies ceases to be employed in local government employment or dies, then, in calculating any amount payable to or in respect of him by way of return of contributions, the amount of his contributions in respect of service reckonable in accordance with rule 8(1) shall be taken to include such amount as would have been payable by way of return of contributions under the Teachers' Regulations if, on his ceasing to be employed in teaching service, he had been entitled to be repaid his contributions without interest.

(2) Where an 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 a person's contributions with compound interest thereon, compound 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 entered local government employment, at the rate at which it would have been calculated under the Teachers' Regulations, if on ceasing to be employed in teaching 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 entered local government employment, 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 this rule previously contained, the sum by which contributions are increased by virtue of paragraph (1) or (2) shall not include—

(*a*) any sum in respect of contributions which, on or after the person's ceasing to be employed in teaching service, were returned to and retained by him ; or

(*b*) any amount in respect of voluntary contributions which are not continued in pursuance of rule 9 of these Rules.

Benefits under Teachers' Regulations

11. Subject to the provisions of Part III and of interchange rules, no payment of any pension shall be made under the Teachers' Regulations to or in respect of any person by reason of any service which is taken into account in calculating the amount of a transfer value under rule 7 other than a payment by way of return of voluntary contributions.

Provisions relating to National Insurance

12.—(1) A person to whom this Part applies shall for the purposes of the Local Government Modification Regulations be—

(*a*) a person subject to flat-rate reduction but not a person entitled to the optant's rate if, on the day on which he ceased to be employed in teaching service, paragraph 2 of Schedule 5 to the principal Teachers' Regulations (which paragraph provides for the reduction of contributions at a flat-rate) applied to him and if, for the purpose of determining

the amount of any pension payable to him under the Teachers' Regulations, paragraph 4 of that Schedule (which provides for the reduction of pensions by fixed annual amounts) would have been applicable to him ;

(*b*) a person subject to flat-rate reduction and a person entitled to the optant's rate if, on the day on which he ceased to be employed in teaching service, paragraph 2 of Schedule 5 to the principal Teachers' Regulations applied to him and if, for the purpose aforesaid, paragraph 5 of that Schedule (which paragraph provides for the reduction of pensions by annual amounts ascertained by reference to a table) would have been applicable to him ; or

(*c*) a person who retains unmodified status if, on the day on which he ceased to be employed in teaching service, paragraph 2 of Schedule 5 to the principal Teachers' Regulations did not apply to him and if, for the purpose aforesaid, neither paragraph 4 nor paragraph 5 of that Schedule would have been applicable to him.

(2) Where, by virtue of paragraph (1)(*b*), a person to whom this Part applies is a person entitled to the optant's rate the material date for the purposes of Part II of the Local Government Modification Regulations shall be the date which was in relation to him the date of modification for the purposes of paragraph 5 of Schedule 5 to the principal Teachers' Regulations.

Questions and Appeals

13. The provisions of section 35 of the Act of 1937 (which section relates to the decision of questions and appeals) shall have effect in relation to a person (not being a local Act contributor) to whom this Part applies as if the reference therein to regulations made under that Act included a reference to these Rules.

PART III

TRANSFER FROM LOCAL GOVERNMENT EMPLOYMENT TO TEACHING SERVICE

Application

14.—(1) Except as in rule 15 provided, this Part shall apply to a person who—

(*a*) becomes, or since the beginning of April 1967 has become, employed in teaching service within the prescribed period after ceasing to be employed in local government employment ;

(*b*) before or within three months after becoming employed in teaching service or six months after the operative date, whichever period shall last expire, or within such longer period as the Secretary of State may with the agreement of the fund authority in any particular case allow, notifies the Secretary of State in writing that he desires this Part to apply to him and furnishes the Secretary of State with particulars in writing of any national service in which he has been engaged since ceasing to be employed in local government employment ; and

(*c*) within three months after becoming employed in teaching service or six months after the operative date, whichever period shall last expire, or within such longer period as the Secretary of State may in any particular case allow, pays to the Secretary of State an amount equal to

any repaid contributions paid to him after he last ceased to be employed in local government employment, together with any compound interest thereon payable in accordance with paragraph (2).

(2) For the purposes of paragraph (1)(*c*)—

(*a*) compound interest shall not be payable unless—

(i) the prescribed period exceeds twelve months ; and

(ii) the fund authority requires that it be paid ;

(*b*) compound interest shall be calculated on the amount of the repaid contributions at the rate of three per cent. per annum with half-yearly rests from the day twelve months after that on which the person ceased to be employed in local government employment or from the day on which repaid contributions were paid to him, whichever shall be the later, to the day on which he notified the Secretary of State as required by paragraph (1)(*b*) ; and

(*c*) if the amount of compound interest calculated as aforesaid exceeds a sum equal to one half of the difference between the amount of the transfer value payable under rule 17 and the amount of the transfer value which would have been so payable if calculated by reference to the person's age on ceasing to be employed in local government employment, it shall be reduced to that sum.

Excepted Cases

15. This Part shall not apply to a person who—

(*a*) ceased to be employed in local government employment before the operative date unless the fund authority consents to its application ; or

(*b*) has received payment of any pension (other than repaid contributions) under the Acts of 1937 to 1953 or a local Act scheme ; or

(*c*) is a person in respect of whom a transfer value has been paid otherwise than under these Rules by a fund authority since he last ceased to be employed in local government employment.

Discretionary Increase of Benefits

16.—(1) The local authority by whom a person to whom this Part applies was last employed may, within six months after the date on which they are notified by the Secretary of State of such application, exercise in relation to that person 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 paragraph (1) 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) the service reckonable, immediately before he ceased to be employed in local government employment, by a person in whose favour the discretion has been exercised shall be deemed to have been correspondingly increased.

(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 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.

Transfer Value

17.—(1) In respect of a person to whom this Part applies the fund authority shall, out of the superannuation fund maintained by them, pay to the Secretary of State a transfer value of an amount calculated in accordance with the following provisions of this rule.

(2) Subject as hereafter in this rule provided, the transfer value shall be an amount equal to the transfer value which would have been payable under the Transfer Value Regulations if the person, at the date when he ceased to be a contributory employee or local Act contributor, had become such an employee or contributor under another local authority in the circumstances described in section 29 of the Act of 1937.

(3) In calculating the amount of a transfer value—

(*a*) there shall be included any increase of service of the person by reason of the exercise under rule 16 of a discretion in his favour ; and

(*b*) the Transfer Value Regulations shall be deemed to be modified—

(i) by the omission from sub-paragraph (*a*) of the definition of "service" in paragraph 1 of the First Schedule thereto of the words "not being such service as is mentioned in proviso (*a*) to that subsection" ; and

(ii) by the omission, in respect of a person who was an established officer or servant within the meaning of the Act of 1909, of subparagraph (*c*) of the said definition.

(4) The amount of the transfer value payable in respect of a person shall be calculated by reference to his age—

(*a*) on the operative date if, having ceased to be employed in local government employment more than twelve months before that date, he became employed in teaching service before that date ; or

(*b*) on the date on which he became employed in teaching service if that date is on or after the operative date and more than twelve months after that on which he ceased to be employed in local government employment.

(5) The amount of the transfer value payable in respect of any person shall be reduced by—

(*a*) an amount equal to any compound interest payable by him in accordance with rule 14(2) ; and

(*b*) an amount equal to any sum payable by the fund authority by way of income tax by reason of the payment of the transfer value.

Supplementary Provisions as to Transfer Value

18.—(1) Where the amount of a transfer value payable under rule 17 is increased by reason of the exercise under rule 16 of a discretion by a local authority, that authority shall pay the amount of the increase to the superannuation fund out of which the transfer value is payable.

(2) When paying a transfer value under rule 17 a fund authority shall furnish to the Secretary of State and to the person in respect of whom it is paid the like particulars relating to that person's pensionable service as would have been given to him if instead of becoming employed in teaching service he had re-entered local government employment.

(3) Where—

(*a*) a transfer value is payable under rule 17 by a fund authority in respect of a person who before entering local government employment had been subject to the Act of 1909 ; and

(*b*) the body by whom he was last employed while subject to that Act (in this rule called "the hospital body") would, if he had become entitled to a superannuation allowance on leaving local government employment, have been liable to contribute to that allowance

the hospital body shall pay to the fund authority a sum equal to the transfer value which they would have been liable to pay to the Minister of Health under regulation 56(4) of the National Health Service (Superannuation) Regulations 1950(**a**) if that regulation had become applicable to the person when he became employed in teaching service.

(4) Where the hospital body would have had in respect of any such contribution as aforesaid a right of contribution from any other body, that other body shall pay to the fund authority a sum equal to the transfer value which they would have been liable to pay to the Minister of Health under paragraph (5) of the said regulation 56 if that regulation had become applicable to the person when he became employed in teaching service.

(5) Where any body referred to in paragraph (3) or (4) has been dissolved or has ceased to exercise functions as such, references to that body shall be construed as references to the appropriate authority as defined in paragraph (15) of the said regulation 56.

Reckoning of Service

19.—(1) Subject as hereafter in this rule provided, in respect of a person to whom this Part applies—

(*a*) there shall be reckoned as reckonable service—

(i) any period of service which, at the time of his ceasing to be employed in local government employment, is reckonable as contributing service or as service or a period of contribution for the purposes of a local Act scheme ;

(ii) any period of national service after ceasing to be employed in local government employment which would have been reckonable as aforesaid if he had again become employed in local government employment after the termination thereof ; and

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

(iii) one-half of any period of service which, at the time of his ceasing to be employed in local government employment, is reckonable as non-contributing service ; and

(*b*) there shall be reckoned as class C external service for the purposes of the Teachers' Regulations any period of service which, at the time of his ceasing to be employed in local government employment, is reckonable as non-contributing service, except in so far as that service is reckoned under this rule or those Regulations as reckonable service.

(2) Where a person to whom this Part applies has, during his local government employment, been employed as a part-time employee, the period of his part-time service shall be treated—

(*a*) for the purpose of determining whether he has served for any minimum period prescribed by the Teachers' Regulations 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' Regulations, as if it were whole-time service for a proportionately reduced period.

(3) Where by virtue of a scheme modifying the Act of 1937 any period of service of a person to whom this Part applies is reckoned at a fraction of its actual length for the purpose of calculating the amount of the transfer value payable under rule 17, then, for the purpose of calculating the amount of any pension payable to or in respect of him under the Teachers' Regulations, only that fraction of that period of service shall be reckoned as reckonable service.

(4) In respect of a person to whom this Part applies there shall not by virtue of this Part be reckoned as reckonable service—

(*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 reckonable service otherwise than by virtue of these Rules ;

(*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 reckonable service within the meaning of regulations made under the Teachers Superannuation (Scotland) Act 1968(**b**) ; or

(*c*) any service which is the subject of a direction under section 17(3) 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) The whole of any period of service to which paragraph (1) applies shall, for the purpose of calculating under section 4(3) of the Teachers' Superannuation Act 1967 the average salary of a person to whom this Part applies, be reckoned as a period of employment in reckonable service and his salary during any period so reckoned shall be such amount as would under the Benefits Regulations be taken into account for the purpose of determining the annual average of his remuneration during that period.

(6) Notwithstanding anything in this rule before contained, any service of a person to whom this Part applies which under the Acts of 1937 to 1953 or a

(**a**) S.I. 1948/1131 (Rev. XVII, p. 813). (**b**) 1968 c. 12.

local Act scheme was at the time he ceased to be employed in local government employment reckonable only for the purpose of calculating the amount of any pension payable to or in respect of him or only for the purpose of determining whether he was entitled to any pension shall be reckoned only for the corresponding like purpose under the Teachers' Regulations.

Voluntary Contributions

20.—(1) A person to whom this Part applies may elect to continue to pay voluntary contributions of any category being paid by him immediately before ceasing to be employed in local government employment.

(2) If a person elects as aforesaid and—

(*a*) within three months of becoming employed in teaching service, or within such longer period as the Secretary of State may in any particular case allow, pays to the Secretary of State a sum equal to the aggregate of any sum paid to him on or after ceasing to be employed in local government employment by way of return of voluntary contributions of any category he has elected to continue to pay, any interest added thereto and any amount deducted therefrom in respect of liability to income tax arising by reason of the payment ; and

(*b*) thereafter pays to the Secretary of State any amounts outstanding in respect of voluntary contributions of any category he has elected to continue to pay at the times at which they would have been payable if he had remained in local government employment

his teaching service shall be affected in the manner prescribed by the following provisions of this rule.

(3) In respect of voluntary contributions paid in respect of added years, those years shall be reckoned as reckonable service.

(4) In respect of voluntary contributions paid otherwise than in respect of added years, the service in respect of which they are paid shall be reckoned for the purposes of the Teachers' Regulations in the manner in which it would under rule 19 have been so reckoned if the payment of the contributions had been completed immediately before the person ceased to be employed in local government.

(5) The provisions of paragraph (5)(*b*), (6), (7), (8) and (12) of regulation 32 and of regulation 38 of the principal Teachers' Regulations shall apply to voluntary contributions payable under this rule as if they were additional contributions payable in respect of previous employment within the meaning of those Regulations.

(6) If a person does not elect as aforesaid or if voluntary contributions are repaid to him under regulation 38 of the principal Teachers' Regulations, as applied by this rule, the period in respect of which such contributions were paid shall be reckoned for the purposes of the Teachers' Regulations only to the extent, if any, to which it would have been so reckoned if no such payments or contributions had been made in respect thereof.

Commencement of Employment

21. For the purposes of regulation 41(1)(*a*)(ii) of the principal Teachers' Regulations the date on which a person to whom this Part applies entered any service taken into account for the purpose of calculating the amount of the transfer value payable in respect of him shall be deemed to be a date on which he became employed in teaching service.

Computation of Contributions

22.—(1) Where a person to whom this Part applies ceases to be employed in teaching service or dies, then, in computing the sum to which he or his personal representatives shall be entitled under the Teachers' Regulations, there shall be included a sum in respect of contributions paid by him in respect of service which by virtue of these Rules is reckoned as reckonable service and, in the case of a person who has elected in pursuance of rule 20 to continue paying voluntary contributions, in respect also of voluntary contributions paid by him before becoming employed in teaching service which have either not been returned to him or, if returned, have been paid to the Secretary of State under rule 20 and have not subsequently been again returned.

(2) In computing the amount of the sum so included for the purposes of this rule compound interest shall be calculated—

(*a*) as respects the period ending immediately before the date on which the person became employed in teaching service, in the manner in which such interest, if any, would have been calculated if the occasion for making the calculation had occurred immediately before that date ; and

(*b*) as respects the period beginning with that date, in accordance with the provisions of Part IV of the principal Teachers' Regulations.

Benefits under Acts or Scheme

23. Notwithstanding anything in the Acts of 1937 to 1953 or any local Act scheme, a person to whom this Part has become applicable shall cease to be entitled to any payment out of the superannuation fund to which he contributed while in local government employment in respect of any service of which account was taken in calculating the transfer value payable under this Part out of that fund, other than a payment by way of return of voluntary contributions.

Provisions relating to National Insurance

24.—(1) In relation to a person to whom this Part applies—

(*a*) the following paragraphs of Schedule 5 to the principal Teachers' Regulations, that is to say—

paragraph 2 (which provides for the reduction of contributions),

paragraph 4 (which provides for the reduction of pensions by fixed annual amounts specified therein), and

paragraph 5 (which provides for the reduction of pensions by annual amounts ascertained by reference to a table)

shall not apply if, on the day on which he ceased to be employed in local government employment, he was a person who retained unmodified status ;

(*b*) paragraphs 2 and 4 of the said Schedule 5 shall apply if, on the day on which he ceased to be employed in local government employment, he was a person subject to flat rate reduction and, for the purpose of determining the amount of any pension payable to him under the Acts of 1937 to 1953 or a local Act scheme, would not have been a person entitled to the optant's rate ; and

(*c*) paragraphs 2 and 5 of the said Schedule 5 shall apply if, for the purpose aforesaid, he would have been a person entitled to the optant's rate.

(2) Where, by virtue of paragraph (1)(c), paragraph 5 of Schedule 5 to the principal Teachers' Regulations applies to a person the date of modification for the purposes of the latter paragraph shall be the date which was in relation to him the material date for the purposes of Part II of the Local Government Modification Regulations.

(3) Expressions to which meanings are assigned by the Local Government Modification Regulations have the same respective meanings in this rule.

PART IV

MISCELLANEOUS

Designated Employees

25. A person who—

(*a*) immediately before 1st April 1967 enjoyed rights as a designated employee ; and

(*b*) elected under regulation 5(3) of the Teachers' Superannuation (Amending) Regulations 1968(**a**) that his service from 1st September 1968 should not be reckonable service

shall be deemed for the purposes of sections 6 and 31 of the Act of 1937 not to have had a disqualifying break of service between the said two dates.

Exclusion of Section 17 *of Act of* 1937

26. In relation to a person who, having been employed in reckonable service, enters local government employment—

(*a*) section 17(1) of the Act of 1937 (which section as extended by the Teachers' Regulations, provides for the reckoning of reckonable service as contributing service) shall not apply ; and

(*b*) his service in respect of which contributions were payable under the Teachers' Superannuation Act 1967(**b**) shall not be reckonable for any purpose of the Acts of 1937 to 1953 or a local Act scheme otherwise than in accordance with these Rules.

Application of Section 11(3) *of Act of* 1953

27.—(1) Section 11(3) of the Act of 1953 (which sub-section enables certain persons who would otherwise be debarred on grounds of age from becoming contributory employees or local Act contributors to become such employees or such contributors and to reckon previous pensionable employment) shall apply to a person who before the operative date entered the employment of a local authority after ceasing to be employed in teaching service on or after 1st April 1967.

(2) For the purposes of paragraph (1) section 11(3) of the Act of 1953 shall have effect as if for the references therein to the passing of that Act there were substituted references to the coming into operation of these Rules.

(**a**) S.I. 1968/1353 (1968 II, p. 3753). (**b**) 1967 c. 12.

Given under the Official Seal of the Secretary of State for Education and Science on 2nd November 1970.

(L.S.)

Margaret H. Thatcher,
Secretary of State for Education and Science.

Consent of the Minister for the Civil Service given under his Official Seal on 3rd November 1970.

(L.S.)

K. H. McNeill,
Authorised by the Minister for the Civil Service.

Given under the Official Seal of the Minister of Housing and Local Government on 4th November 1970.

(L.S.)

Peter Walker,
Minister of Housing and Local Government.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules provide for the preservation of the superannuation rights of persons who change their employment in either direction between pensionable teaching service and pensionable local government employment in England and Wales ; with modifications and drafting amendments, they continue in respect of service pensionable under the Teachers' Superannuation Regulations 1967 to 1970 the arrangements formerly applicable to service pensionable under the Teachers (Superannuation) Acts 1925 to 1956 by virtue of the Superannuation (Teaching and Local Government) Interchange Rules 1961, which are revoked.

The principal changes from the previous Rules are:—

(*a*) provision is made enabling the period between employments to be extended (rule 4(2)) ;

(*b*) in certain cases on transfer from teaching service to local government employment interest is required to be paid, and on transfer from local government employment to teaching service may be required to be paid, on contributions made by a person in his previous employment, returned to him on his leaving that employment and required by the Rules to be again paid by him (rules 5(2) and 14(2)) ; and

(*c*) certain teachers who have elected to return to the local government scheme are enabled to retain their rights as designated employees in that scheme (rule 25).

The Rules may have retrospective effect in certain cases under the express power of, and subject to the safeguards required by, section 2(5) of the Superannuation (Miscellaneous Provisions) Act 1948.

SI 1970/1646
ISBN 0-11-001646-7

