STATUTORY INSTRUMENTS

1962 No. 1000 (S. 42)

PENSIONS

The Superannuation (Teaching and Local Government) Interchange (Scotland) Rules, 1962

Made - - - -	*9th May*, 1962
Laid before Parliament	*18th May*, 1962
Coming into Operation	*19th May*, 1962

In exercise of the powers conferred upon me by sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), and of all other powers enabling me in that behalf, and with the consent of the Treasury, I hereby make the following rules:—

PART I

INTRODUCTORY

Citation and Commencement

1. These Rules may be cited as the Superannuation (Teaching and Local Government) Interchange (Scotland) Rules, 1962, and shall come into operation on the 19th day of May, 1962.

Interpretation

2.—(1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

(*a*) "the Act of 1909" means the Asylums Officers' Superannuation Act, 1909(b);

(*b*) "the Act of 1937" means the Local Government Superannuation (Scotland) Act, 1937(c);

(*c*) "the Act of 1939" means the Local Government Staffs (War Service) Act, 1939(d);

(*d*) "the Act of 1946" means the Education (Scotland) Act, 1946(e);

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

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

(*g*) "the Acts of 1937 to 1953" means the Local Government Superannuation (Scotland) Acts, 1937 to 1953;

(*h*) "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 or any corresponding provision of a local Act scheme, 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,

(a) 11 & 12 Geo. 6. c. 33. (b) 9 Edw. 7. c. 48. (c) 1 Edw. 8 & 1 Geo. 6. c. 69.
(d) 2 & 3 Geo. 6. c. 94. (e) 9 & 10 Geo. 6. c. 72. (f) 1 & 2 Eliz. 2. c. 25.

have subsequently become and are reckonable under or by virtue of rules made under section 2 of the Act of 1948 or any other enactment;

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

(*i*) "the Benefits Regulations" means the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(a);

(*j*) "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;

(*k*) "the Local Government Modification Regulations" means the National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) 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 said National Insurance (Modification of Local Government Superannuation Schemes) (Scotland) Regulations, 1947;

(*l*) "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;

(*m*) "national service", in relation to any person, 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 of the authority or body under whom he held his last relevant appointment;

(*n*) "pension" has the meaning assigned to that expression by the Act of 1948;

(*o*) "a period of experience" means a period of experience of value to a person as a teacher which is deemed to be and is recorded as first class service under the provisions of Regulation 9 of the Regulations of 1957;

(*p*) "the Regulations of 1957" means the Teachers (Superannuation) (Scotland) Regulations, 1957 and 1958;

(*q*) "return of contributions" means any contributions repaid to a person under paragraph 2 of Regulation 50 of the Regulations of 1957, section 10 of the Act of 1937 or under a local Act scheme or under any such regulation, section or scheme as amended by these Rules, as the context requires;

(*r*) "teacher" has the meaning assigned to it by Regulation 16 or Regulation 32, as the case may be, of the Regulations of 1957;

(*s*) "teaching service" has the meaning assigned to the expression "first class service" by Regulation 5 of the Regulations of 1957 and includes periods which are deemed to be service—

(a) S.I. 1954/1059 (1954 II, p. 1632). (b) S.R. & O. 1947/1697 (Rev. XVI, p. 286: 1947 I, p. 1509). (c) 14 & 15 Geo. 6. c. 65.

(i) under the provisions of Regulation 9 of the said Regulations (which relates to periods of experience of value to teachers);

(ii) under the provisions of Regulation 12 of the said Regulations (which relates to breaks in service)

but does not include any period of teaching service which has been recorded as third class service in consequence of the return of the balance of contributions to the teacher unless it is again recorded as first class service in consequence of the repayment of the said balance by the teacher in accordance with the provisions of paragraph 4 of Regulation 50 of the said Regulations;

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

(*u*) "voluntary contributions" means—

(i) in relation to a person who has become employed in teaching 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 teaching service, any payments similar in character to any such payments as aforesaid for which provision is made under the Regulations of 1957;

(*v*) "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 any of the above-mentioned Acts or Regulations shall, unless the context

(a) S.I. 1954/1256 (1954 II, p. 1736). (b) S.I. 1961/492 (1961 I, p. 1125).

otherwise requires, have the same respective meanings for the purposes of these Rules.

(3) Reference in these Rules to the provisions of any enactment, rules, regulations or other instrument shall, unless the context otherwise requires, be construed as references to those provisions as re-enacted, reproduced or amended by any subsequent enactment, rules, regulations or instrument.

(4) Any reference to a provision of the Regulations of 1957 shall, so far as is necessary in relation to any period before 1st October, 1956, be construed as a reference to the corresponding provision of the Superannuation Scheme for Teachers (Scotland) 1952(a), or to the corresponding provision of the Scheme or instrument revoked by the said Superannuation Scheme for Teachers (Scotland) 1952, as the case may be.

(5) The Interpretation Act, 1889(b), shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

Revocation and transitional provisions

3. The Superannuation (Teaching and Local Government) (Scotland) Rules, 1951(c) 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 teaching service or, in the case of a person who was employed in teaching 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 15, 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

(a) S.I. 1952/464 (1952 I, p. 873). (b) 52 & 53 Vict. c. 63.
(c) S.I. 1951/292 (1951 II, p. 173).

employed in local government service shall be construed in relation to a person to whom section 6 of the Act of 1948 has become applicable as a reference to a period of five years from that date or such longer period as the Secretary of State 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 foregoing 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 teaching 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 the last foregoing 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 foregoing paragraphs shall not apply—

(*a*) to a person who in his new employment is employed in local government service unless the authority employing him in his new employment are satisfied that by reason of 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 employed in teaching 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 Secretary of State is satisfied that by reason of 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 TEACHING SERVICE TO EMPLOYMENT IN LOCAL GOVERNMENT SERVICE

Reckoning of previous service

5.—(1) Where a person, being a teacher to whom the Regulations of 1957 apply, without having become entitled to a pension under the Regulations of 1957 other than a return of contributions, becomes employed in local government service within the prescribed period after ceasing to be employed in teaching service, then, subject to the provisions of this Part of these Rules—

(*a*) his teaching service shall be reckoned as contributing service under the Act of 1937 or as service under a local Act scheme or a period of contribution for the purposes of such a scheme, as the case may be:

Provided that teaching 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 a return of contributions under the Regulations of 1957 in respect of any service for which a transfer value has been paid or is payable under the provisions of Rule 14 of these Rules.

(2) In the case of a person to whom this Part of these Rules applies, a period of teaching 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 under section 66 of the National Health Service (Scotland) Act, 1947(**b**), and became reckonable as teaching 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 teaching 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 teaching service, for the purpose of determining whether he had served for any minimum period prescribed by the Regulations of 1957, 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 teaching 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 additional contributions paid under paragraph (3) of Regulation 9 of the Regulations of 1957 after last ceasing to be employed in teaching 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 10 of these Rules.

Recognised teaching service

6. For the purposes of this Part of these Rules a person shall not be deemed to cease to be employed in teaching service if he ceases to be employed in employment which is treated as teaching service solely for the purpose of determining whether that person has served for the minimum period required by the Regulations of 1957 as a condition for any pension to be paid to or in respect of him.

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

Reckoning of war service and national service

7. Where a person's period of war service within the meaning of the Education (Scotland) (War Service Superannuation) Act, 1939(**a**), as amended by section 37 of the Teachers (Superannuation Act, 1956(**b**), or period of national service within the meaning of the Teachers' Pensions (National Service) (Scotland) Rules, 1952(**c**), 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 first mentioned Act or the Act of 1946 or the aforesaid first mentioned Rules has not been paid to the Secretary of State at the date on which that person becomes employed in local government service, then—

(*a*) the right to receive the sum outstanding 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 14 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 teaching service, in the course of making to the Secretary of State payments pursuant to Rule 17 of these Rules or any similar rule contained in other rules made under sections 2 and 15 of the Act of 1948, or, as a condition of reckoning past service or a period of experience, payments or contributions under the Regulations of 1957 additional to the payments or contributions required by section 103 of the Act of 1946, 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 teaching service—

(*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 Secretary of State if the person had remained in his employment in teaching 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

(**a**) 2 & 3 Geo. 6. c. 96. (**b**) 4 & 5 Eliz. 2. c. 53. (**c**) S.I. 1952/518 (1952 I, p. 928).

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) (Scotland) Regulations, 1954(a), as are contained in that scheme;

(*b*) he shall be entitled in continuation of payments which were being made as a condition of reckoning a period of experience as teaching service 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 teaching service, a local Act contributor;

(*c*) he shall be entitled to continue payments which were being made under the Regulations of 1957 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 teaching service:

Provided that no account shall be taken of a period of experience for the purpose of determining whether the person has served for any minimum period prescribed by the superannuation provisions applicable to him as necessary for any benefit to be paid to or in respect of him.

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

9.—(1) The modifications for which the Local Government Modification Regulations provide shall not apply to any person to whom this Part of these Rules applies if the National Insurance modifications under the Regulations of 1957 did not apply in his case at the date when he ceased to be in teaching service.

(2) Without prejudice to the operation of the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 (Scotland) 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 Regulation 42 of the Regulations of 1957 for the purpose of calculating the amount of the reduction of any benefit to which that person might have become entitled under the Regulations of 1957 had he continued to be subject thereto, were service for the purposes of the Acts of 1937 to 1953 or of service for the purposes of the local Act scheme, as the case may be, rendered on or after the 5th July, 1948; and if any benefit to which he might have become entitled under the Regulations of 1957 would have been reduced under sub-paragraph (*b*) of paragraph (1) of Regulation 42 of and the Fourth Schedule to the Regulations of 1957 by reference to the Table in the said Schedule 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 his case, except that the reference to his age at that date shall be construed as a reference to his age at the

(a) S.I. 1954/1241 (1954 II, p. 1680).

date which was relevant for the purpose of the Table in the said Fourth Schedule.

Section 15 of the Act of 1937 not to apply

10.—(1) Section 15 of the Act of 1937, which provides for the reckoning of service of a teacher who becomes a contributory employee, shall not apply in the case of any person who, having been employed in teaching service, becomes employed in local government service.

(2) Where section 15 of the Act of 1937 has ceased to apply to the teaching 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 of a local Act scheme otherwise than by virtue of these Rules.

Computation of contributions of a person to whom Rule 5 applies

11.—(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 provision there is payable to or in respect of him an amount by way of return of contributions (with or without interest) or a benefit which falls to be calculated by reference to any such amount, then, for the 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 of the relevant local Act scheme, an amount equal to the amount which would have been payable by way of return of contributions under the Regulations of 1957 if, on his ceasing to be employed in teaching 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 those contributions are increased under the last foregoing 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 Regulations of 1957 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 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 paragraphs (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 teaching 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

12. Where a person to whom this Part of these Rules applies ceases to be employed in local government service and becomes employed in teaching 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 14 of these Rules shall be treated under the Regulations of 1957 as third class service.

Decision of questions and appeals

13. The provisions of section 30 of the Act of 1937, which relate to the decision of questions by local authorities and appeals to the Secretary of State, 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 Secretary of State

14.—(1) The Secretary of State 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 teaching 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 teaching 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 teaching 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 TEACHING SERVICE

Reckoning of previous service

15.—(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 teaching 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 deemed to be a period of teaching service under the Regulations of 1957 :

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 Regulations of 1957 ;

(*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, for the purposes of the Regulations of 1957, be deemed to be a period of teaching service equal to one half of its actual length ; and

(*c*) notwithstanding anything in the Act of 1937 or the local Act scheme, no payment shall be made under the said Act or scheme 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 deemed to be a period of teaching service equal to its whole length, for the purpose of—

(*a*) determining whether he has completed a definite period of service prescribed by the Regulations of 1957 as a condition of obtaining a retiring allowance or a gratuity under the said Regulations ; or

(*b*) calculating his pensionable salary under the provisions of the said Regulations.

(3) Where part of the person's service, not being a part to which any of the foregoing 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 the minimum period prescribed in paragraph (1) of Regulation 39 of the Regulations of 1957 as a condition of obtaining a retiring allowance or a gratuity under the said Regulations.

(4) A person shall not be entitled by virtue of this Part of these Rules to reckon as teaching service for the purposes of the Regulations of 1957—

(*a*) any service which he is, or was, entitled to reckon as contributing or non-contributing service by virtue of section 15 of the Act of 1937 (which relates to contributory employees who have been teachers) if that service is reckonable as teaching 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 15 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) Acts, 1918 to 1956 ; 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.

(a) S.I. 1948/1131 (Rev. XVII, p. 813: 1948 I, p. 3304).

(5) This Part of these Rules shall not apply to a person as aforesaid unless within three months after the date on which he is informed that the Regulations of 1957 apply to him—

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

(*b*) he pays to the Secretary of State 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 Secretary of State 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) (Scotland) Rules 1951 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

16. 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 Regulations of 1957 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 Regulations of 1957, as if it were whole-time service for a proportionately reduced period.

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

17.—(1) In taking account under Rule 15 of these Rules of any service or period of contribution for the purposes of a local Act scheme, regard shall be had to the following provisions of this rule.

(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 (other than those to which paragraph 5 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 hereinafter provided.

(3) If a person, having, in accordance with the foregoing paragraph, elected to continue the payments described therein, pays to the Secretary of State within three months of his entering employment in teaching service or within such longer period as the Secretary of State may in any particular case allow a sum equal to any sum paid to him by way of return of such payments on or after ceasing to be employed in local government service—

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

(*b*) the service in respect of which they are made shall be reckonable for the purposes of the Regulations of 1957 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.

(4) If a person to whom paragraph (2) of this Rule applies does not elect as aforesaid, or if he fails to pay any sum payable to the Secretary of State under paragraph (3) of this Rule, then, for the purposes of the Regulations of 1957, 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.

(5) 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 Secretary of State 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 teaching service or within such longer period as the Secretary of State may in any particular case allow, he pays forthwith to the Secretary of State 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 Secretary of State 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 Regulations of 1957 as teaching service:

Provided that the said added years shall not be reckonable for the purposes of the Regulations of 1957 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 23

18. 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 23 of these Rules, then, for the purpose of assessing the pension payable to or in respect of him under the Regulations of 1957, only that fraction of that period of service shall be reckoned as teaching service.

Exercise by local authority of discretionary powers to increase benefits

19.—(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 Secretary of State 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 foregoing 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 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 subsection (4) of section 2 of the Act of 1953.

(5) Where the amount of any transfer value payable under Rule 23 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 15 applies

20. Where a person to whom this Part of these Rules applies ceases to be employed in teaching service, or dies, then, in computing the sum equal to the balance of his contributions to which he or his personal representatives shall be entitled under paragraph (2) of Regulation 50 or under paragraph (1) of Regulation 51 respectively of the Regulations of 1957, 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 is treated as teaching 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 teaching 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 paragraph (7) of Regulation 37 of the Regulations of 1957.

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

21.—(1) The modifications for which the Regulations of 1957 provide (hereinafter in this rule referred to as "the said modifications") 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 said modifications shall apply to any other person to whom this Part of these Rules applies as if any service which he becomes entitled to reckon as teaching service under paragraph (1) of Rule 15 of these Rules, being such service as is described in paragraph (3) of this Rule, were teaching service in respect of which he was subject to the said modifications as a teacher of the first category within the meaning of Regulation 33 of the Regulations of 1957 provided that, if the Local Government Modification Regulations modified or would but for the National Insurance (Modification of Local Government Superannuation Schemes) No. 2 (Scotland) Regulations, 1961, have modified any benefit to which he might have become entitled 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 said modifications shall apply to him as they apply to a teacher of the second category within the meaning of the said Regulation 33, 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.

(3) 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 (Scotland) Regulations, 1961, have been taken for the purpose of reducing any 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 teaching service

22. For the purposes of paragraph (3) of Regulation 39 of the Regulations of 1957, 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 teaching service.

Transfer values payable to the Secretary of State

23.—(1) As respects a person to whom this Part of these Rules applies there shall be paid to the Secretary of State out of the superannuation fund to which the person was last a contributor before becoming employed in teaching 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

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

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 section" 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 said definition of "service"; 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 teaching 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 teaching 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 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 local authority in relation to that body, (as it was defined in paragraph (15) of Regulation 52 of the National Health Service (Scotland) (Superannuation) Regulations, 1950(a)), shall pay to the authority maintaining the superannuation fund to which the person was last a contributor a sum equal to the transfer value which that body or the appropriate authority would have been liable to pay to the Secretary of State under paragraph (4) of that Regulation, if those Regulations had become applicable to the person on the date when he became employed in teaching 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 pay to the authority maintaining the superannuation fund to which the person was last a contributor an amount equal to the transfer value which that other body or the appropriate authority would have been liable to pay to the Secretary of State under paragraph (5) of the aforesaid Regulation 52, if that regulation had become applicable to that person on the date when he became employed in teaching service.

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

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

(3) When paying a transfer value in pursuance of this Rule, the local authority shall furnish to the Secretary of State 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 teaching service he had become employed in local government service.

PART IV

GENERAL

Application of Rules to Part III teachers

24. These Rules shall, with the necessary modifications, apply to teachers to whom Part III of the Regulations of 1957 applies as they apply to teachers to whom Part IV of the said Regulations applies.

John S. Maclay,
One of Her Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
7th May, 1962.

We consent,

W. S. I. Whitelaw,
Michael Noble,
Two of the Lords Commissioners of Her Majesty's Treasury.

9th May, 1962.

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 in Scotland transferring between pensionable employment in teaching service 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) (Scotland) Rules, 1951.

Part I of the Rules contains definitions of terms used in the Rules, including definition of " the prescribed period ", 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 Secretary of State, 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 Secretary of State 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 as pensionable teaching service. The local authority concerned is required to pay to the Secretary of State 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.