The Superannuation (Teaching and Local Government) (Scotland) Rules, 1951

1951 No. 292 (S. 11)

Made - - - -	21*st February*, 1951
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Coming into Operation	1*st March*, 1951

The Secretary of State in exercise of the powers conferred upon him by Sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), and with the consent of the Treasury, hereby makes the following Rules :—

PART I

Introductory

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

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

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

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

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

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

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

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

(*h*) " local government service " means service in—

(*a*) 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 ; or

(*b*) employment, other than as aforesaid, by virtue of which the person employed is entitled to participate in any of the benefits of a superannuation fund maintained under a local Act scheme in Scotland ;

(*i*) " national service ", in relation to any person, means compulsory national service within the meaning of the Act of 1948, and includes any period immediately following the termination thereof during which

(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) S.R. & O. 1947 (No. 1697) I, p. 1509.

the person with the consent of the authority or body by whom he was employed immediately before undertaking compulsory national service continues in similar service;

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

(*k*) "Regulations of 1939" means the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1939(**a**);

(*l*) "Regulations of 1950" means the National Health Service (Scotland) (Superannuation) Regulations, 1950(**b**);

(*m*) "return of contributions" means any contributions repaid to a person under sub-paragraph (*a*) of paragraph (2) of article 14 or under article 14A of the Scheme of 1926 or under section 10 of the Act of 1937 or under a local Act scheme as the context requires;

(*n*) "Scheme of 1919" means the Superannuation Scheme for Teachers in Scotland, dated the 5th day of June, 1919, and approved by His Majesty in Council on the 30th day of July, 1919(**c**);

(*o*) "Scheme of 1926" means the Superannuation Scheme for Teachers (Scotland), 1926(**d**);

(*p*) "teacher" includes any person who is deemed to be a teacher for the purposes of the Scheme of 1926;

(*q*) "teaching service" has the meaning assigned to the expression "service" by paragraph (7) of article 1 of the Scheme of 1926, and includes periods which are deemed to be service under the provisions of article 16 of the said Scheme, but does not include any period of teaching service in respect of which the balance of contributions has been returned to the teacher unless the said balance has subsequently been repaid by the teacher, all in accordance with the provisions of paragraph (2) of article 14 or of article 14A of the Scheme of 1926;

(*r*) "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 and Schemes shall, unless the context otherwise requires, have the same respective meanings for the purposes of these Rules.

(3) The Interpretation Act, 1889(**e**), applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(4) References in these Rules to any enactment, scheme or other instrument shall, except where the context otherwise requires, be construed as references to the enactment, scheme or other instrument as amended by or under any other enactment, scheme or other instrument, including these Rules.

(a) S R. & O. 1939 (No. 559) II, p. 2614. (b) S.I. 1950 (No. 498) I, p. 1458.
(c) S.R. & O. 1919 (No. 1105) I, p. 688. (d) S.R. & O. 1926 (No. 363) p. 449.
(e) 52 & 53 Vict. c. 63.

PART II

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

2.—(1) Where a person, being a teacher to whom the Scheme of 1926 applies, without having become entitled to pension under the Scheme of 1926 other than a return of contributions, has become or becomes employed in local government service within twelve months 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;

(*b*) any period of employment as a teacher which, but for the provisions of rule 7 (*b*) of these Rules, would, as the result of the return of contributions in respect of the period, have been reckonable as non-contributing service by virtue of paragraph (*a*) of the proviso to section 15 of the Act of 1937, shall be reckoned as non-contributing service; and

(*c*) neither he nor his legal personal representatives shall be entitled to a return of contributions under the Scheme of 1926 in respect of any service for which a transfer value has been paid or is payable under the provisions of rule 12 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 the Regulations of 1950 and became reckonable as teaching service by virtue of Part III of these Rules or by virtue of the provisions of the Regulations of 1950, shall be reckonable—

(*a*) if that person becomes subject to the Act of 1937, as non-contributing service at double the length at which it became reckonable as teaching service under rule 13 (1) (*b*) of these Rules or under the Regulations of 1950; or

(*b*) if that person becomes subject to a local Act scheme, as service under the local Act scheme at double the length at which it became reckonable as teaching service under rule 13 (1) (*b*) of these Rules or under the Regulations of 1950 for the purpose of determining whether he has served for the minimum period required by that scheme for any pension to be paid to or in respect of him and for all other purposes of the local Act scheme at the length at which it became so reckonable as teaching service as aforesaid.

(3) This Part of these Rules shall apply to a person as aforesaid notwithstanding that the cessation of his employment in teaching service or the commencement of his employment in local government service was before the date of the coming into operation of these Rules, but shall not apply—

(*a*) to a person whose last employment in teaching service ceased before 4th February, 1948, unless—

(i) he is in local government service at the date of the coming into operation of these Rules and section 15 of the Act of 1937 applies to him, or, if he is not in such service at that date, he re-enters such service within twelve months of having ceased to be in such service and section 15 of the Act of 1937 applies to him; and

(ii) the Secretary of State and the local authority maintaining the fund to which he is or becomes a contributor agree that this Part of these Rules shall apply to him; or

(*b*) to a person whose employment in teaching service ceased on or after 4th February, 1948, but before the date of the coming into operation of these Rules unless—

(i) he has been in local government service without a break of twelve months or more at any one time from the date when he ceased to be employed in teaching service until the date of the coming into operation of these Rules or, if he has ceased to be employed in local government service before the last mentioned date, until the date when he ceased to be in such service; and

(ii) if he has ceased to be employed in local government service before the date of the coming into operation of these Rules, the Secretary of State and the local authority maintaining the fund to which he was last a contributor agree that this Part of these Rules shall apply to 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 or within six months after the date on which these Rules come into operation, whichever period last expires—

(*a*) he notifies the local authority by whom he is employed, or, if he has ceased to be employed in local government service, the local authority by whom he was last employed in such service, that he desires this Part of these Rules to apply to him and furnishes such local authority with particulars of his previous pensionable employment; and

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

Provided that nothing in this rule shall affect the application of rule 7 of these Rules.

3.—(1) 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 Scheme of 1926 as a condition for any pension to be paid to or in respect of him.

(2) For the purpose of determining whether a person to whom this Part of these Rules applies is entitled to any pension under the Act of 1937 or under a local Act scheme, there shall be taken into account—

(*a*) 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 Scheme of 1926 as a condition for any pension to be paid to or in respect of him; or

(*b*) any period of teaching service in respect of which the person received a return of contributions, not being a return of contributions after last ceasing to be employed in teaching service, which he has not subsequently repaid to the Secretary of State under the proviso to subparagraph (*b*) of paragraph (2) of article 14 of the Scheme of 1926.

4.—(1) Where a person's period of war service within the meaning of the Education (Scotland) (War Service Superannuation) Act, 1939(**a**), or period of national service within the meaning of the Teachers' Pensions (National Service) (Scotland) Rules, 1949(**b**), becomes reckonable as contributing service by virtue of these Rules but the sum due in respect of contributions in respect of the whole or any part of such war service or national service payable by that person in accordance with the aforesaid Act or the 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 or, if he became so employed before the date of the coming into operation of these Rules, at the last mentioned date, 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 of this rule ; and

(*b*) unless the said sum is paid within three months after the date when that person becomes employed in local government service or within six months after the date of the coming into operation of these Rules, whichever period last expires, by that person to the local authority maintaining the fund to which that person is a contributor at the date of payment, or, if he has ceased to be employed in local government service before the date of the coming into operation of these Rules or after the said date and before the expiration of the period aforesaid, to the local authority maintaining the fund to which he was last a contributor, 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 12 of these Rules and if it has not been disregarded in the transfer value already paid such transfer value shall be adjusted accordingly.

(2) In the case of any person as aforesaid, any employer's contributions which remain unpaid at the date on which the Secretary of State pays a transfer value in respect of that person under rule 12 of these Rules shall be paid forthwith by the employer to the Secretary of State or shall be deducted from any grant payable to that employer by the Secretary of State.

5. Where a person to whom this Part of these Rules applies was, at the date on which he ceased to be in teaching service, in course of making to the Secretary of State, as a condition of reckoning past service, any payments or contributions additional to those required by section 103 of the Act of 1946, the right to receive the balance of the said payments or contributions outstanding at the date on which he becomes employed in local government service shall be, and is hereby, transferred to the local authority maintaining the fund to which that person is a contributor, and that person shall pay to such local authority sums equal to the sums which he would, but for the provisions of this rule, have been liable to pay to the Secretary of State at the times at which and in the manner in which those sums would have become due to the Secretary of State.

6.—(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 Scheme of 1926 did not apply in his case at the date when he ceased to be in teaching

(**a**) 2 & 3 Geo. 6. c. 96. (**b**) S.I. 1949 (No. 558) I, p. 1561.

service unless the modifications for which the Local Government Modification Regulations provide apply to him at the date of the coming into operation of these Rules by virtue of a notice given by him under regulation 10 of the said Regulations.

(2) 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 rule 2 (1) of these Rules, being service of which account would have been taken under article 7A of the Scheme of 1926 for the purpose of calculating the amount of the reduction of any benefit to which that person might have become entitled under the said Scheme had he continued to be subject thereto, were contributing service or service for the purposes of the local Act scheme, as the case may be, rendered on or after the 5th July, 1948; and if any benefit to which he might have become entitled under the Scheme of 1926 would have been reduced under paragraph (2) of article 7A of and the Third Schedule to the said Scheme 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 date which was relevant for the purpose of the Table in the said Third Schedule.

7. 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 or has become employed in local government service—

(*a*) on or after the date on which these Rules come into operation; or

(*b*) before that date, if he is a person to whom this Part of these Rules applies.

8. Where a person to whom this Part of these Rules applies ceases to be employed in local government service or dies, then, in calculating contributions for the purposes of computing the sum to which he or his legal personal representatives shall be entitled under section 10 of the Act of 1937, or the corresponding provisions of the local Act scheme, there shall be included a sum in respect of contributions paid by him in respect of service which by virtue of these Rules has become reckonable as local government 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 local government 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, or, if he received a return of contributions before that date, up to the date of such return; and

(*b*) as respects the period beginning with that date, compound interest shall be calculated in accordance with the provisions of section 10 of the Act of 1937 or the local Act scheme.

9. 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 12 of these Rules shall be treated under the Scheme of 1926 as service for the purpose of making up the period of service referred to in sub-paragraph (*a*) of paragraph (1) of article 5 of the Scheme.

10. Where a person to whom this Part of these Rules applies, having become employed in local government service before the date of the coming into operation of these Rules, ceased to be so employed before that date and again became or becomes so employed, the provisions of the Act of 1937 or any local Act scheme, as the case may be, relating to the reckoning of service on change of employment shall have effect as if any teaching service which he may have become entitled to reckon by virtue of rule 2 of these Rules in relation to the employment which he first entered after ceasing to be employed in teaching service had been reckonable at the date on which he ceased to hold his first employment in local government service.

11. 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 has become or 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.

12.—(1) The Secretary of State shall, as respects a person to whom this Part of these Rules applies, pay from the Education (Scotland) Fund to the authority maintaining the fund to which that person first became or 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 Regulations of 1939 if that person, at the date when he ceased to be in teaching service, had ceased to be a contributory employee or a local Act contributor under one local authority and had become entitled to reckon such service as is reckonable under rule 2 of these Rules and had become a contributory employee or local Act contributor under another local authority:

Provided that—

(i) the transfer value payable in respect of a person who ceased to be employed in teaching service more than twelve months before the date of the coming into operation of these Rules shall be calculated by reference to his age at that date; and

(ii) the transfer value shall be reduced by any sum outstanding or balance of payments or contributions the right to receive which is transferred to a local authority under the provisions of rule 4 (1) (*a*) or rule 5 of these Rules.

(2) The references to "any Regulations" and "any such Regulations" in the proviso to paragraph 2 of the First Schedule to the Regulations of 1939 shall be deemed to include a reference to these Rules.

PART III

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

13.—(1) Where, within the prescribed period as hereinafter in this rule defined, a person, without having become entitled to pension under the Act of 1937 or a local Act scheme other than a return of contributions, has become or 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 war service or 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 war service or national service, shall be deemed to be a period of teaching service for the purposes of the Scheme of 1926;

(*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 Scheme of 1926, be deemed to be a period of teaching service equal to one half of its actual length;

(*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 to him or his legal 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 Scheme of 1926 as a condition of obtaining a retiring allowance or a gratuity under the said Scheme; or

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

(3) For the purposes of this rule the expression "prescribed period" means—

(*a*) in the case of a person to whom section 6 of the Act of 1948 (which relates to periods of emergency) has become applicable, five years after ceasing to be employed in local government service or such longer period as the Secretary of State may in the particular case allow;

(*b*) in the case of a person who ceased to be employed in local government service in order to undertake war service or who immediately after leaving such employment became engaged in national service, six months after the termination of his war service or national service; and

(*c*) in the case of any other person, twelve months after ceasing to be employed in local government service.

(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 Scheme of 1926—

(*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 1946.

(5) This Part of these Rules shall apply to a person as aforesaid notwithstanding that the cessation of his employment in local government service

(a) S.I. 1948 (No. 1131) I, p. 3304.

or the commencement of his employment in teaching service was before the date of the coming into operation of these Rules, but shall not apply—

(*a*) to a person whose employment in local government service ceased before the 4th February, 1948 ; or

(*b*) to a person whose employment in local government service ceased on or after 4th February, 1948, but before the date of the coming into operation of these Rules unless—

(i) he is employed in teaching service at the date of the coming into operation of these Rules, or, if he is not employed in teaching service on that date, the Secretary of State agrees that this Part of these Rules shall apply to him ; and

(ii) the local authority maintaining the fund to which he was last a contributor before he became employed in teaching service agrees that this Part of these Rules shall apply to him.

(6) 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 teaching service or within six months after the date on which these Rules come into operation, whichever period last expires—

(*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 his previous pensionable employment and war service and national service (if any) ; and

(*b*) he pays to the Secretary of State an amount equal to any sum received by him by way of return of 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.

14. 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 for the purposes of these Rules as though it were whole-time service for a proportionately reduced period.

15.—(1) Where a person's period of war service becomes reckonable as teaching service by virtue of these Rules but the contributions in respect of the whole or any part of such war service payable by that person in accordance with the Act of 1939 have not been paid before the date when that person becomes employed in teaching service, then—

(*a*) the right to receive the sum outstanding on that date shall be, and is hereby, transferred to the Secretary of State ; and

(*b*) unless the said sum is paid within three months after that date or within six months after the date of the coming into operation of these Rules, whichever period last expires, by that person to the Secretary of State, the service in respect of which payment is not made shall not be reckonable as teaching service.

(2) Where a person's period of national service would be reckonable as teaching service by virtue of these Rules but for the fact that contributions in respect thereof under the Superannuation (Local Government Staffs) (National Service) (Scotland) Rules, 1949(a), have not been paid before the date when that person becomes employed in teaching service, then unless

(a) S.I. 1949 (No. 581) I, p. 3108.

the said contributions are paid to the Secretary of State within three months after that date or within six months after the date of the coming into operation of these Rules, whichever period last expires, the period of national service shall not be reckonable as teaching service.

(3) Any service which, by virtue of paragraph (1) (*b*) or paragraph (2) of this rule, is not reckonable as teaching service shall be disregarded in calculating the transfer value payable under rule 23 of these Rules, and if it has not been disregarded in the transfer value already paid such transfer value shall be adjusted accordingly.

16.—(1) In taking account under rule 13 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) If in relation to part of any service which is reckonable as service or a period of contribution for the purposes of a local Act scheme (which part is in this paragraph referred to as " the said service ") the person pursuant to the provisions of the local Act scheme had been discharging, but had not fully discharged, a liability subsisting at the date when he ceased to be employed in local government service to pay a sum by instalments to the superannuation fund maintained by the local Act authority as a condition of being entitled to reckon the said service for any of the purposes of the local Act scheme, then—

(*a*) subject to the provisions of sub-paragraph (*b*) of this paragraph, the said service shall be treated as non-contributing service ; and

(*b*) to the extent that one half the aggregate amount paid on account of the sum due in discharge of the liability aforesaid would enable him to reckon any period of the said service as contributing service, if the said service had been non-contributing service and the said aggregate amount had been paid pursuant to the provisions of the Local Government Superannuation (Additional Contributory Payment) (Scotland) Regulations, 1939(**a**), by reference to the emoluments of his employment in local government service at the date when he ceased to hold that employment and to his age at that date, the whole of that period shall be treated as contributing service.

(3) If in relation to part of any service which is reckonable as service or a period of contribution for the purposes of a local Act scheme (which part is in this paragraph referred to as " the said service ") the person pursuant to the provisions of the local Act scheme would, had he not ceased to hold his employment in local government service, have been under a liability to make payments to the superannuation fund maintained by the local Act authority by way of a contribution of a percentage of emoluments additional to the percentage payable in respect of current service as a condition of being entitled to reckon the said service for any of the purposes of the local Act scheme, then the provisions of sub-paragraphs (*a*) and (*b*) of the last preceding paragraph shall apply in relation to the said service, with the substitution for the reference in sub-paragraph (*b*) to the sum due in discharge of the liability aforesaid of a reference to additional percentage contributions.

17. Where a person to whom this Part of these Rules applies has agreed to make, but had not during his employment in local government service completed making, additional contributory payments under the pension scheme applicable to him, not being a local Act scheme, the right to receive

(a) S.R. & O. 1939 (No. 375) II, p. 2574.

the balance of the debt shall be, and is hereby, transferred to the Secretary of State, and that person shall pay to the Secretary of State sums equal to the additional contributory payments which he would have been liable to make had he continued to be employed in local government service at the times at which and in the manner in which those additional contributory payments would have become due to the authority maintaining the superannuation fund to which he was a contributor.

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 Scheme of 1926, only that fraction of that period of service shall be reckoned as teaching service.

19.—(1) If in his local government service a person to whom this Part of these Rules applies was not subject to a local Act scheme, the local authority in whose service he was last employed in local government service before he became employed in teaching service (hereinafter in this rule referred to as " the employing authority ") may, within three months after the date on which the employing authority is informed by the Secretary of State that that person has notified the Secretary of State that he desires this Part of these Rules to apply to him, resolve that the whole or any part of his non-contributing service (if any) shall be reckonable as contributing service.

(2) Where the Act of 1937 or any local Act or any local Act scheme contains provisions conferring a discretion on the employing authority, in calculating any superannuation benefit to which a person might have become entitled on ceasing to be employed, to add a number of years to the number of years which the person had actually served in the aggregate, the employing authority may, in the case of a person to whom this Part of these Rules applies, within three months after the date on which the employing authority is informed by the Secretary of State that that person has notified the Secretary of State that he desires this Part of these Rules to apply to him, exercise that discretion in relation to him, notwithstanding that he has not become entitled to that benefit.

(3) Where a person to whom this Part of these Rules applies was during his employment in local government service subject to the Act of 1937 and a scheme modifying that Act conferred a discretion on the employing authority to increase in respect of any period of service the rate for calculation of any benefit to which he might have become entitled on ceasing to be employed, and that period of service would but for the provisions of this paragraph be reckonable at a fraction of its actual length for the purpose of calculating the transfer value payable under rule 23 of these Rules, the employing authority may, within three months after the date on which they are informed by the Secretary of State that that person has notified the Secretary of State that he desires this Part of these Rules to apply to him, resolve that that period of service shall for that purpose be reckonable at its full length.

(4) For the purposes of rule 13 of these Rules any period of a person's non-contributing service in respect of which a resolution has been passed under paragraph (1) of this rule and any number of years added to a person's service under paragraph (2) of this rule shall be deemed to be a period of service which is reckonable at the time of the person's 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, as the case may be.

(5) Where the amount of any transfer value payable under rule 23 of these Rules is increased in consequence of the exercise by the employing authority of any power conferred upon it by paragraph (1), (2) or (3) of this rule, the employing authority shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable.

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 legal personal representatives shall be entitled under paragraph (2) of article 14 or under paragraph (3) of article 10 respectively of the Scheme of 1926, 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 (4) of article 1 of the Scheme of 1926.

21.—(1) The modifications for which the Teachers' Pensions (National Insurance Modifications) (Scotland) Regulations, 1948(**a**), 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 the modifications for which the Local Government Modification Regulations provide did not apply in his case at the date when he last ceased to be in local government service unless he has elected for modification under the provisions of article 2A of the Scheme of 1926.

(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 13 of these Rules, being service of which account would have been taken under the Local Government Modification Regulations for the purpose of reducing any benefit to which the person might have become entitled under the Act of 1937 or the local Act scheme had he continued to be subject thereto, 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 article 2A of the Scheme of 1926, provided that if the Local Government Modification Regulations modified any benefit to which he might have become entitled under the Act of 1937 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 article 2A, 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.

22. For the purposes of sub-paragraph (*c*) of paragraph (1) of article 5 of the Scheme of 1926, 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.

(a) S.I. 1948 (No 944 I, p. 812.

23.—(1) As respects a person to whom this Part of these Rules applies—

(*a*) there shall be paid to the Secretary of State out of the 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 ascertained in accordance with the provisions of Part I of the Schedule to these Rules; and

(*b*) If the person is such a person as is mentioned in Part II of that Schedule there shall be made by the authorities therein mentioned such payments as are therein specified.

(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 Education (Scotland) Fund.

PART IV

Treatment of Local Government Service as Qualifying (Non-Pensionable) Service for Purposes of the Teachers Superannuation Scheme

24.—(1) Where a person to whom Part II of these Rules does not apply, whether by reason of the fact that he has not given notice to the local authority in accordance with rule 2 (4) (*a*) or otherwise, but that person has been employed in teaching service at any time before becoming employed in local government service, paragraph (1) of article 12 of the Scheme of 1926 may, if the Secretary of State thinks fit, apply to that person's pensionable local government service as it applies to the employments mentioned in the said paragraph (1):

Provided that service which is so treated shall not be deemed to be—

(i) service for the purpose of the proviso to sub-paragraph (*b*) of paragraph (2) of article 14 of the Scheme of 1926; or

(ii) service for the purpose of calculating pensionable salary of a teacher under the provisions of the said Scheme.

(2) Where, as a result of the application of the last foregoing paragraph, paragraph (2) of the said article 12 applies, the case shall be dealt with under sub-paragraph (*b*) of the said paragraph (2).

(3) Where, as a result of the application of the foregoing provisions, paragraph (3) of the said article 12 applies, the provisions of the said paragraph (3) shall be modified in accordance with proviso (i) to the first paragraph of this rule.

(4) Nothing in the foregoing provisions of this rule shall render any pension payable in respect of any period before the date of the coming into operation of these Rules.

PART V

General

25. These Rules shall, with the necessary modifications, apply to teachers to whom the Scheme of 1919 applies as they apply to teachers to whom the Scheme of 1926 applies.

26.—(1) These Rules may be cited as the Superannuation (Teaching and Local Government) (Scotland) Rules, 1951.

(2) These Rules shall come into operation on 1st March, 1951.

SCHEDULE

Payments to be made under rule 23

PART I

The transfer value payable under sub-paragraph (*a*) of paragraph (1) of rule 23 of these Rules in respect of any such person as is mentioned in that rule shall be an amount equal to the transfer value that would have been payable under the Regulations of 1939 had that person at the date when he became employed in teaching service ceased to be a contributory employee or local Act contributor under one local authority and been entitled to reckon such service as is reckonable under rule 13 of these Rules and 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—

(i) the transfer value payable in respect of a person who ceased to be employed in local government service more than twelve months before the date of the coming into operation of these Rules shall be calculated by reference to his age at that date; and

(ii) the transfer value shall be calculated as if the words "other than such service as is mentioned in proviso (*a*) to that section" had been omitted from the definition of "service" in paragraph 1 of the First Schedule to the Regulations of 1939, and as if there had been no reference in that definition to a person who had been an established officer or servant within the meaning of the Act of 1909; and

(iii) the transfer value shall be reduced by any sum paid or payable to the Secretary of State under the provisions of rule 15 or rule 17 of these Rules.

PART II

1. If such a person as is mentioned in rule 23 of these Rules has before becoming a contributory employee or local Act contributor been an established officer or servant within the meaning of the Act of 1909 to whom any regulations for the time being in force under the Second Schedule to the Act of 1937 had been applicable, the following provisions shall have effect.

2. If the body by whom the person 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 the appropriate authority in relation to that body (as defined in paragraph (15) of Regulation 52 of the Regulations of 1950) shall make a payment to the authority maintaining the fund to which the person was last a contributor of an amount equal to the transfer value which that body or the appropriate authority would have been liable to pay to the Secretary of State under paragraph (4) of that Regulation, if those Regulations had become applicable to the officer on the date when he became employed in teaching service.

3. Where the body mentioned in the last preceding paragraph would in the circumstances therein mentioned have had, in respect of any such contribution to a superannuation allowance as is therein mentioned, a right of contribution from any other body, that other body or the appropriate authority in relation to that other body defined as aforesaid shall make a payment to the authority maintaining the fund to which the person was last a contributor of an amount equal to the transfer value which that other body or the appropriate authority would have been liable to pay to the Secretary of State under paragraph (5) of

Regulation 52 of the Regulations of 1950 if those Regulations had become applicable to that person on the date when he became employed in teaching service.

Hector McNeil,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.
20th February, 1951.

We consent,

H. W. Bowden,
Charles Royle,
Two of the Lords Commissioners of His Majesty's Treasury.

21st February, 1951.

EXPLANATORY NOTE

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

The main purpose of these Rules is to preserve the superannuation rights of persons who transfer from pensionable service under local government superannuation schemes to pensionable service under the Scottish Teachers Superannuation Scheme, or vice versa, by appropriate transfer value payments as between the Secretary of State and the local government superannuation fund.

Where the Rules are retrospective in effect, such retrospection is covered by the provisions of section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948, subject to the right in such cases of the transferees or local authorities to elect that the Rules shall not apply.

The Superannuation (Teaching and Public Boards) Rules, 1951

1951 No. 1852

Made - - - - *18th October,* 1951
Coming into Operation *7th November,* 1951
*To be laid before Parliament**

The Minister of Education, with the consent of the Treasury, in exercise of the powers conferred upon him by Sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(**a**), hereby makes the following rules:—

PART I—INTRODUCTORY

1.—(1) These rules may be cited as the Superannuation (Teaching and Public Boards) Rules, 1951, and shall come into operation on the 7th day of November, 1951.

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

(**a**) 11 & 12 Geo. 6. c. 33. (**b**) 52 & 53 Vict. c. 63.
* This Instrument was laid before Parliament on 7th November, 1951.