STATUTORY INSTRUMENTS

1967 No. 949

PENSIONS

The Superannuation (Teaching and National Health Service) Interchange Rules 1967

Made - - -	*22nd June* 1967
Laid before Parliament	*30th June* 1967
Coming into Operation	*1st July* 1967

The Secretary of State for Education and Science, 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), as amended by the Superannuation (Miscellaneous Provisions) Act 1967(b), hereby makes the following Rules:—

PART I

GENERAL

Citation and Commencement

1. These Rules may be cited as the Superannuation (Teaching and National Health Service) Interchange Rules 1967 and shall come into operation on 1st July 1967.

Interpretation

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

" the Act of 1967 " means the Teachers' Superannuation Act 1967(c);

" employing authority " has the same meaning as in the Health Service Regulations;

" employment as an officer " means employment which is or is treated as employment by an employing authority as an officer entitled to participate in superannuation benefits under the Health Service Regulations;

" Health Service Regulations " means the National Health Service (Superannuation) Regulations 1961 and 1966(d); and the " principal Health Service Regulations " means the former Regulations;

" the Minister " means the Minister of Health;

" national service " means in relation to any person—

(*a*) service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(e); and

(*b*) service immediately following any 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

(a) 1948 c. 33. (b) 1967 c. 28. (c) 1967 c. 12.
(d) S.I. 1961/1441, 1966/1523 (1961 II, p. 2824, 1966 III, p. 4309). (e) 1951 c. 65.

body or person by whom he was last employed before undertaking the service;

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

" pension " has the meaning assigned to it by the Superannuation (Miscellaneous Provisions) Act 1948;

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

" reckonable service " means such service as is by virtue of the Teachers' Regulations reckonable service for all the purposes of Part I of the Act of 1967;

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

" the Teachers' Regulations " means the Teachers' Superannuation Regulations 1967(a);

" teachers' superannuation account " means the account kept under section 5 of the Act of 1967;

" teaching service " means—

(*a*) reckonable service; and

(*b*) service as an organiser, a teacher in an admitted school, a services civilian teacher or a services education officer to whom the provisions of Part VII, VIII, IX, or X respectively of the Teachers' Regulations apply;

" voluntary contributions " means—

(*a*) in relation to employment in teaching service, additional contributions being paid under section 19 of the Teachers (Superannuation) Act 1956(b) or regulation 32 of the Teachers' Regulations in respect of a period of previous employment and any contributions being paid as a condition of actual service being increased by the addition thereto of any other period (not being a period of war service or national service); and

(*b*) in relation to employment as an officer, additional contributory payments within the meaning of the Health Service Regulations and payments in respect of added years within the meaning of those Regulations.

(2) References in these Rules to the provisions of any enactment, rules or regulations shall be construed, unless the context otherwise requires, as references to those provisions as amended, modified, affected, applied or re-enacted by any subsequent enactment, rules or regulations.

(3) Any reference in these Rules to a rule or to a Part shall, unless the context otherwise requires, be construed as a reference to a rule or a Part, as the case may be, of these Rules.

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

Amendment of Health Service Regulations

3.—(1) The provisions of the principal Health Service Regulations specified in Part I of the Schedule to these Rules shall have effect subject to the amendments set out in that Part.

(2) The provisions of the Regulations specified in Part II of the said Schedule, being regulations relating to National Health Service superannuation, are hereby revoked.

(a) S.I. 1967/489 (1967 I, p. 1562). (b) 1956 c. 53. (c) 1889 c. 63.

Prescribed Period

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

(*a*) in the case of a person who immediately after leaving his employment in teaching service or as an officer became engaged in national service, a period of six months after the date of termination of the national service;

(*b*) in the case of a person who within twelve months of leaving his employment in teaching service—

(i) did not enter employment as an officer; and

(ii) became employed in approved external service within the meaning of section 13 of the Teachers (Superannuation) Act 1925(a) or in external service within the meaning of the Teachers' Regulations

a period of twelve months after the date of the termination of such approved external service or such external service, if the Minister agrees;

(*c*) in the case of a person who after leaving his employment as an officer—

(i) entered employment approved by the Minister for the purposes of regulation 79 of the principal Health Service Regulations; and

(ii) within twelve months of leaving his employment as an officer did not become employed in teaching service

a period of twelve months after the date of the termination of the employment approved as aforesaid, if the Secretary of State agrees; and

(*d*) in the case of any other person, a period of twelve months after the date of the termination of his employment in teaching service or as an officer.

(2) In reckoning the periods of six months and twelve months mentioned in paragraph (1) above no account shall be taken of any period spent by a person on a course of study or training after leaving his former employment—

(*a*) in the case of a person whose new employment is as an officer, if the Minister agrees; or

(*b*) in the case of a person whose new employment is teaching service, if the said course was approved by the Minister and if the Secretary of State is satisfied that by reason of his having undertaken it he is better fitted for the duties of his new employment.

PART II

TRANSFER FROM TEACHING TO NATIONAL HEALTH SERVICE

Application

5.—(1) Except as in paragraph (2) below provided, this Part shall apply to a person who—

(*a*) on or after the operative date enters employment as an officer within the prescribed period after ceasing to be employed in teaching service; and

(*b*) within three months of entering employment as an officer, or within such longer period as the Minister may in any particular case allow—

(a) 1925 c. 59.

(i) gives notice in writing to his employing authority that he desires this Part to apply to him and furnishes that authority with particulars of his teaching service; and

(ii) pays to his employing authority an amount equal to any sum paid to him by way of return of contributions (other than voluntary contributions and contributions paid under the Teachers' Superannuation (Family Benefits) Regulations 1966(a)) after he last ceased to be employed in teaching service, together with an amount equal to any sum deducted therefrom in respect of income tax.

(2) This Part shall not apply to a person who has become entitled to any pension (other than repayment of contributions) under the Teachers Superannuation Acts 1918 to 1956 or the Teachers' Regulations unless the Secretary of State consents.

Transfer Value

6.—(1) In respect of a person to whom this Part applies there shall be included as expenditure in the teachers' superannuation account such a sum by way of transfer value as shall be calculated in accordance with the following provisions of this rule.

(2) Subject as hereafter in this rule provided, the transfer value shall be an amount equal to the transfer value which would have been payable under the Local Government Superannuation (Transfer Value) Regulations 1954(b) if the person, at the date when he ceased to be employed in teaching service had ceased to be a contributory employee under one local authority and had become such an employee under another local authority and had been entitled to reckon as contributing service such service as was reckonable for the purposes of the Teachers' Regulations.

(3) For the purposes of paragraph (2) above teaching service which is reckoned as contributing service shall be deemed to have been affected or modified in accordance with regulations applicable to contributing service made under section 110 of the National Insurance Act 1965(c), or under any provision corresponding thereto contained in an enactment repealed by that Act, in like manner and to the like extent, as nearly as may be, as it was affected or modified by other such regulations.

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

(*a*) any period of war service within the meaning of the Teachers Superannuation (War Service) Act 1939(d) and of national service within the meaning of the Teachers Superannuation (National Service) Rules 1949(e) in respect of which, at the time the amount thereof is determined, the contributions remain unpaid;

(*b*) any period in respect of which the person was immediately before ceasing to be employed in teaching service paying voluntary contributions if, at the time the amount of the transfer value is determined, he has not elected to continue paying such contributions; and

(*c*) any period of service as a teacher in an admitted school to which Part VIII of the Teachers' Regulations applied and any period of contributory service under a scheme made under section 21(1)(*a*) of the Teachers (Superannuation) Act 1925.

(a) S.I. 1966/357 (1966 I, p. 813).
(b) S.I. 1954/1212 (1954 II, p. 1723).
(c) 1965 c. 51.
(d) 1939 c. 95.
(e) 1949/468 (1949 I, p. 1533).

(5) The amount of the transfer value shall be calculated by reference to the person's age at the date on which he entered employment as an officer—

(*a*) if, after ceasing to be employed in teaching service and before entering employment as an officer, he has undergone a course of study or training and rule 4(2) applies to him; or

(*b*) if he entered employment as an officer more than twelve months after ceasing to be employed in teaching service and rule 4(1)(*b*) applies to him.

(6) In this rule " contributory employee " and " contributing service " have the same respective meanings as in the Local Government Superannuation Act 1937(**a**).

Benefits under Teachers' Regulations

7. Subject as in Part III provided, no payment of any pension shall be made under the Teachers' Regulations to any person or his personal representatives in respect of any service which is taken into account in calculating the amount of a transfer value under rule 6.

PART III

TRANSFER FROM NATIONAL HEALTH SERVICE TO TEACHING

Application

8.—(1) Except as in paragraph (2) below provided, this Part shall apply to a person who—

(*a*) on or after the operative date becomes employed in teaching service within the prescribed period after leaving employment as an officer; and

(*b*) within three months of becoming employed in teaching service, or within such longer period as the Secretary of State may in any particular case allow—

(i) gives notice in writing to the Secretary of State that he desires this Part to apply to him and furnishes the Secretary of State with particulars of his employment reckonable as service for the purposes of the Health Service Regulations; and

(ii) pays to the Secretary of State an amount equal to any sum paid to him by way of return of contributions (other than voluntary contributions) on or after he last left employment as an officer, together with an amount equal to any sum deducted therefrom in respect of income tax.

(2) This Part shall not apply to a person who—

(*a*) has become entitled to any pension (other than repayment of contritions) under the Health Service Regulations, unless the Minister consents; or

(*b*) in consequence of an offence of a fraudulent character or of grave misconduct, has forfeited under regulation 55 of the principal Health Service Regulations all claim to superannuation benefits.

Transfer Value

9.—(1) In respect of a person to whom this Part applies there shall be included as revenue in the teachers' superannuation account such a sum by way of

(**a**) 1937 c. 68.

transfer value as is equal to the transfer value which would, subject as in paragraph (2) below provided, have been payable under regulation 82 of the principal Health Service Regulations if the person, at the date when he left employment as an officer, had become a contributory employee within the meaning of the Local Government Superannuation Act 1937.

(2) The amount of the transfer value shall be calculated by reference to the person's age at the date on which he became employed in teaching service if, after leaving employment as an officer and before becoming employed in teaching service—

(*a*) he entered employment approved by the Minister for the purposes of regulation 79 of the principal Health Service Regulations and rule 4(1)(*c*) applies to him; or

(*b*) he has undergone a course of study or training and rule 4(2) applies to him.

Reckoning of Service

10.—(1) Any period of service of a person to whom this Part applies shall—

(*a*) if treated as contributing service within the meaning of the Health Service Regulations for the purpose of calculating under rule 9 the amount of the transfer value, be reckoned as reckonable service; and

(*b*) if treated as non-contributing service within the meaning of the Health Service Regulations for the said purpose, be reckoned as to one-half thereof as reckonable service.

(2) Any period of service of a person to whom this Part applies which was non-contributing service for the purposes of the Health Service Regulations shall, to such extent as it is not reckoned under paragraph (1) above as reckonable service, be class C external service for the purposes of the Teachers' Regulations.

(3) Any other period of service which a person to whom this Part applies was entitled to reckon under the Health Service Regulations solely for the purpose of determining whether he was entitled to any benefit under those Regulations shall be similarly reckoned for the purposes of the Teachers' Regulations.

(4) The salary of a person to whom this Part applies during any period reckoned as reckonable service under paragraph (1) above shall, for the purpose of determining his average salary under section 4(3) of the Act of 1967, be such remuneration as would be taken under regulation 34 of the principal Health Service Regulations into account for the purpose of calculating the annual average of his remuneration during that period.

Continuation of Voluntary Contributions

11.—(1) A person to whom this Part applies may, within three months of becoming employed in teaching service or within such longer period as the Secretary of State may in any particular case allow, elect to continue to pay voluntary contributions being paid by him immediately before leaving employment as an officer.

(2) If a person does elect as aforesaid and—

(*a*) within three months of becoming employed in teaching service, or within such longer period as the Secretary of State may in any particular case allow, pays to the Secretary of State a sum equal to any sum paid to him by way of return of voluntary contributions on or after his leaving his employment as an officer; and

(*b*) thereafter pays to the Secretary of State any amounts payable in respect of such voluntary contributions at the times at which they would have been payable if he had remained in employment as an officer

his teaching service shall be affected in the same manner, as nearly as may be, as his service reckonable for the purposes of the Health Service Regulations would have been affected if he had completed the payment thereof before leaving employment as an officer.

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

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

Commencement of Employment as an Officer

12. For the purposes of regulation 41(1)(*a*)(ii) of the Teachers' Regulations the date on which a person to whom this Part applies became employed in service taken into account for the purpose of calculating under rule 9 of these Rules the amount of a transfer value shall be deemed to be a date on which he became employed in teaching service.

Return of Contributions

13.—(1) Where a person to whom this Part applies ceases to be employed in teaching service or dies, then, in computing the sum to which he or his personal representatives shall be entitled under the Teachers' Regulations, there shall be included a sum in respect of contributions paid by him in respect of service which by virtue of these Rules has become reckonable as teaching service and, in the case of a person who has elected in pursuance of rule 11 to continue paying voluntary contributions, in respect also of voluntary contributions paid by him before becoming employed in teaching service which have either not been returned to him or, if returned, have been paid to the Secretary of State under rule 11(1) and have not subsequently been again returned.

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

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

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

Modification of Contributions and Benefits by Reason of National Insurance

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

(*a*) paragraph 2 of Schedule 5 to the Teachers' Regulations (which paragraph provides for the reduction of contributions payable under subsections (3) and (4) of section 3 of the Act of 1967) shall apply if paragraph

(2) of regulation 52 of the principal Health Service Regulations applied to him immediately before he left employment as an officer;

(*b*) paragraph 5 of Schedule 5 to the Teachers' Regulations (which paragraph provides for the reduction of annual superannuation allowances in the case of certain persons in employment before the beginning of July 1948) shall apply if either sub-paragraph (*a*) or sub-paragraph (*b*) of paragraph (3) of regulation 52 of the principal Health Service Regulations would have applied to him if he had become entitled to a pension under those Regulations; and

(*c*) paragraph 4 of Schedule 5 to the Teachers' Regulations (which paragraph provides for the reduction of annual superannuation allowances in the case of other persons) shall apply if sub-paragraph (*c*) of paragraph (3) of regulation 52 of the principal Health Service Regulations would have applied to him if he had become entitled to a pension under those Regulations.

(2) Where, by virtue of paragraph (1)(*b*) above, paragraph 5 of Schedule 5 to the Teachers' Regulations applies to a person the date of modification for the purposes of the latter paragraph shall be—

(*a*) in a case to which sub-paragraph (*a*) of paragraph (3) of regulation 52 of the principal Health Service Regulations would have applied, the date which was in relation to him the material date for the purposes of that sub-paragraph; and

(*b*) in a case to which sub-paragraph (*b*) of the said paragraph (3) would have applied, 5th July 1948 or the date on which he entered employment as an officer, whichever was the later.

SCHEDULE

Rule 3

PART I

Amendments to the Principal Health Service Regulations

1. In regulation 2(1) (which contains definitions)—

(*a*) after the definition of " the Teachers Acts " there shall be inserted the following definition—

" " the Teachers' Regulations " means the Teachers' Superannuation Regulations 1967 ";

(*b*) in the definition of " added years " (*a**) for item (*d*) there shall be substituted the following words—

" or (*d*) regulation 15 of the Teachers' Regulations ";

(*c*) after the definition of " short service gratuity " there shall be inserted the following definition—

" " teaching service " has the same meaning as in the Superannuation (Teaching and National Health Service) Interchange Rules 1967 ".

2. In regulation 17(1) (which relates to the reckoning as service of previous periods of employment) for proviso (*b*) there shall be substituted the following proviso—

" (*b*) in the case of a person who, before entering the employment in which he is an officer, was employed in teaching service—

(*) as amended by regulation 26 of S.I. 1966/1523.

(i) the following periods shall not be reckonable as service under these regulations, except for the sole purpose of determining whether he is entitled to any benefit hereunder, namely—

(*i*) any period of external service within the meaning of the Teachers' Regulations;

(*ii*) any period of contributory service under any scheme made under section 21(1)(*a*) of the Act of 1925; and

(*iii*) any period of service as a teacher in an admitted school to which Part VIII of the Teachers' Regulations applied; and

(ii) any period of employment which was qualifying service within the meaning of the Teachers' Regulations shall be disregarded;".

3. In regulation 17(3) for paragraph (*c*) there shall be substituted the following paragraph—

"(*c*) employment in teaching service;".

4. In regulation 29(1) (which relates to the reckoning of contributing service) for sub-paragraph (*b*)(ii) there shall be substituted the following sub-paragraph—

"(ii) teaching service;".

5. In regulation 52 (which effects modifications in connection with National Insurance)—

(*a*) in paragraph (3)(*a*), after the words "Teachers Acts" in the first place where they occur, there shall be inserted the words "or the Teachers' Regulations";

(*b*) in paragraphs (3)(*a*) and (12)(*a*), for the words "such a person in contributory service under the Teachers Acts as is mentioned in sub-paragraph (*c*) of paragraph (3) of regulation 17" and in paragraphs (3)(*b*), (8) (in both places where those words occur) and 12(*b*), for the words "such a person in contributory service under the Teachers Acts as aforesaid", there shall be substituted the words "in teaching service";

(*c*) in paragraph (9), for the words "such a person in contributory service under the Teachers Acts as aforesaid," there shall be substituted the words "in teaching service or".

6. In regulation 61(2) (which relates to accounts) for the words "as a person in contributory service under the Teachers Acts" there shall be substituted the words "in teaching service".

PART II

Revocations

1. In the National Health Service (Superannuation) Regulations 1947(a)—in regulation 54, sub-paragraphs (ii) to (v) in paragraph (*a*).

2. In the principal Health Service Regulations—

(*a*) in regulation 77, in paragraph (1), the words "or such a person in contributory service under the Teachers Acts as is mentioned in sub-paragraph (*c*) of paragraph (3) of regulation 17", the words "or contributory service, as the case may be,", the words "or as qualifying service for the purposes of the Teachers Acts", the words "or such a person in contributory service under the Teachers Acts as aforesaid";

(a) S.I. 1947/1755 (Rev. XV, p. 799: 1947 I, p. 1373).

and the words " or, if he is such a person in contributory service under the Teachers Acts as aforesaid, paid to the Secretary of State,"; and paragraph (3); and

(*b*) in Schedule 2, paragraph 3(*d*)(ii).

Given under the Official Seal of the Secretary of State for Education and Science on 20th June 1967.

(L.S.)

Anthony Crosland,
Secretary of State for Education and Science.

We concur,

Joseph Harper,
B. K. O'Malley,
Two of the Lords Commissioners of Her Majesty's Treasury.

22nd June 1967.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules maintain existing arrangements for preservation of teachers' superannuation rights on transfer of employment to or from the National Health Service.

Provision for this purpose has, since 1947, been included in National Health Service (Superannuation) Regulations made under section 67 of the National Health Service Act 1946. The present Rules, like other similar Rules affecting teachers, are made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 and are necessary by reason of the consolidation of the law relating to teachers' superannuation by the Teachers' Superannuation Act 1967 and the Teachers' Superannuation Regulations 1967. Consequential amendments are made to the Regulations relating to National Health Service superannuation.

A minor improvement of the previous arrangements enables superannuation rights to be transferred where the two pensionable employments have been separated by certain kinds of " approved " service; also the time within which application for transfer of rights must be made is extended.