1962 No. 538

PENSIONS

The Superannuation (Teaching and Northern Ireland Civil Service) Interchange Rules, 1962

Made - - - -	15*th March*, 1962
Laid before Parliament	22*nd March*, 1962
Coming into Operation	1*st April*, 1962

The Minister of Education, with the consent of the Treasury, in exercise of the powers conferred upon him by Sections 2, 11 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), hereby makes the following rules :—

PART I—INTRODUCTORY

Citation and Commencement

1. These Rules may be cited as the Superannuation (Teaching and Northern Ireland Civil Service) Interchange Rules, 1962, and shall come into operation on the first day of April, 1962.

General Purpose

2. These Rules prescribe conditions as to pensions payable to persons transferring from one employment to another employment, that is to say :—

(*a*) Part II of these Rules prescribes conditions for persons transferring from employment in contributory service under the Teachers (Superannuation) Acts, 1918 to 1956, to employment in the permanent civil service of Northern Ireland ; and

(*b*) Part III of these Rules prescribes conditions for persons transferring from employment in the permanent civil service of Northern Ireland to employment in contributory service under the Teachers (Superannuation) Acts, 1918 to 1956.

Interpretation

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

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

" the Act of 1925 " means the Teachers (Superannuation) Act, 1925(b) ;

" the Superannuation Acts " means the Superannuation Acts (Northern Ireland), 1921 to 1958, and includes any enactments thereby applied to the civil service of Northern Ireland ;

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

" civil servant " means a person serving in an established capacity in the permanent civil service of Northern Ireland ;

" contributions " means contributions payable by or in respect of a teacher under the Teachers Acts ;

(a) 11 & 12 Geo. 6. c. 33. (b) 15 & 16 Geo. 5. c. 59.

" contributing service " and " contributory employee " have the meanings respectively assigned to them by the Local Government Superannuation Act, 1937(a);

" contributory service " and " recognised service " have the same meanings respectively as they have under the Teachers Acts, except that they do not include :—

(*a*) service which is treated as recognised or contributory service under Section 13 (2) (*g*) of the Act of 1925 ; or

(*b*) service which, under the provisions of any scheme made under Section 21 (1) (*c*) of the Act of 1925, is treated in the same manner as service which is approved external service under Section 13 of the Act of 1925 ; or

(*c*) recognised or contributory service in respect of which the teacher in question has received a return of contributions under the Teachers Acts (not being a return of contributions after last ceasing to be employed in contributory service) which he has not subsequently repaid to the Minister under the proviso to Section 12 (2) of the Act of 1925 ; or

(*d*) service which is treated as recognised service or as contributory service merely for the purpose of determining whether the teacher in question has completed the period of service required by the Teachers Acts as necessary for any pension to be paid to or in respect of him or merely for that purpose and for the purpose of assessing his average salary under those Acts ;

" the Minister " means the Minister of Education ;

" the Ministry of Finance " means the Ministry of Finance for Northern Ireland ;

" national service " means, in relation to any person, service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(b), 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 body or person by whom he was employed before undertaking the service ;

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

" teacher " includes any person who is treated as a teacher for the purposes of the Teachers Acts.

(2) Other expressions to which meanings are assigned by any of the above-mentioned Acts shall, unless the context otherwise requires, have the same respective meanings for the purposes of these Rules.

(3) 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.

(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.

(a) 1 Edw. 8 & 1 Geo. 6. c. 68. (b) 14 & 15 Geo. 6. c. 65. (c) 52 & 53 Vict. c. 63.

PART II—TRANSFER FROM CONTRIBUTORY SERVICE TO THE CIVIL SERVICE OF NORTHERN IRELAND

Payment of Transfer Value

4. Where a person either—

(*a*) becomes, or before the date of the coming into operation of these Rules became, a civil servant within twelve months of ceasing to be employed in contributory service, or

(*b*) having been appointed a civil servant within twelve months of ceasing to be employed in contributory service, becomes, or before the date of the coming into operation of these Rules became, employed as a civil servant, but, owing to causes which in the opinion of the Ministry of Finance and of the Minister are reasonable, does not or did not become so employed until after the expiration of the said period of twelve months

a transfer value in respect of his recognised service (if any) and his contributory service shall, except as in these Rules provided, be paid by the Minister to the Ministry of Finance in accordance with the provisions of Rule 12 of these Rules.

Cases to which Rules do not apply

5.—(1) This Part of these Rules shall not apply—

(*a*) to a person who has become entitled to a pension (other than a return of contributions) under the Teachers Acts; or

(*b*) to a person who last ceased to be employed in contributory service before 1st April, 1950; or

(*c*) to a person who became a civil servant after the 31st March, 1950, and before the date of the coming into operation of these Rules, unless he is a civil servant on the latter date and the Minister agrees that this Part of these Rules shall apply to him; or

(*d*) to a person who does not, within three months after the date on which he becomes a civil servant or within six months after the date of the coming into operation of these Rules, whichever is the later date, give notice in writing to the Ministry of Finance that he desires this Part of these Rules to apply to him, and furnish that Ministry with particulars of his recognised service (if any) and of his contributory service; or

(*e*) to a person who does not, within three months after the date on which he becomes a civil servant or within six months after the date of the coming into operation of these Rules, whichever is the later date, or within such longer period as the Ministry of Finance and the Minister may allow in any particular case, pay to the Ministry of Finance an amount equal to any return of contributions made to him under the Teachers Acts after he last ceased to be employed in contributory service.

(2) No transfer value shall be payable by the Minister under this Part of these Rules in respect of contributory service under a Scheme made under Section 21 (1) (*a*) of the Act of 1925.

Outstanding Contributions for War Service and National Service

6. Where the contributory service of a person to whom this Part of these Rules applies includes a period of war service within the meaning of the

Teachers Superannuation (War Service) Act, 1939(a), or a period of national service within the meaning of the Teachers Superannuation (National Service) Rules, 1949(b), but any sum due in respect of contributions in respect of the whole or any part of such war service or national service payable by that person in accordance with the aforesaid Act or the aforesaid Rules has not been paid to the Minister at the date on which the Minister pays the transfer value in respect of that person under this Part of these Rules, then—

(*a*) the right to receive the sum outstanding, which shall include any sum due by virtue of Section 2 (3) or Section 3 (2) (*b*) of the said Act of 1939, shall be, and is hereby, transferred to the Ministry of Finance; and

(*b*) unless the said sum is paid by that person to the Ministry of Finance within such time as that Ministry shall require, the period of service in respect of which the payment is not made shall be treated as not having been a period of contributory service and any transfer value paid by the Minister under these Rules in respect of that person's service shall be adjusted accordingly.

Continuation of Additional Contributions in respect of Previous Employment

7. Where a person to whom this Part of these Rules applies was, at the date on which he ceased to be employed in contributory service, in course of paying to the Minister, as a condition of reckoning previous employment, contributions additional to those required by Section 9 of the Act of 1925, the right to receive the balance of the said contributions shall be transferred to the Ministry of Finance.

Former Poor Law Officers

8. In the case of a person to whom Section 124 (5) of the Local Government Act, 1929(c), applies and who becomes subject to the provisions of this Part of these Rules, paragraph (*c*) of the said Section 124 (5) shall have effect as if any pension payable to or in respect of him were payable to or in respect of him under Part II of the Act of 1925.

Educational Organisers

9. In the case of an organiser any part of whose service before the 1st April, 1926, is, by virtue of Section 14 (2) of the Act of 1925 and of this Part of these Rules, not reckonable in the calculation of the transfer value payable by the Minister under Rule 12 of these Rules, the local education authority by whom he was last employed in contributory service may pay to or in respect of him the amounts by which the pension granted to him when he ceases to be a civil servant would have been increased if the whole of his service had been reckonable in the calculation of the transfer value.

Counting of Transferred Service as Qualifying Service

10. Where a person to whom this Part of these Rules applies ceases to be a civil servant and becomes re-employed in contributory service in circumstances in which Part III of these Rules does not apply to him, any service in respect of which a transfer value was paid by the Minister under this Part of these Rules shall be treated under the Teachers Acts as qualifying service.

(a) 2 & 3 Geo. 6. c. 95. (b) S.I. 1949/468 (1949 I, p. 1533). (c) 19 & 20 Geo. 5. c. 17.

Treatment of Service as Approved External Service

11. Notwithstanding anything contained in the last foregoing Rule, if a person to whom this Part of these Rules applies has at any time before becoming a civil servant been employed in contributory service under a Scheme made under Section 21 (1) (*a*) of the Act of 1925, his recognised and contributory service in respect of which a transfer value has been paid under these Rules shall be treated as approved external service for the purposes of Section 13 of the Act of 1925.

Amount of Transfer Value

12. The transfer value payable by the Minister in respect of any person to whom this Part of these Rules applies shall be an amount equal to the transfer value which would have been payable under the Local Government Superannuation (Transfer Value) Regulations, 1954(a), if that person, at the date when he ceased to be employed in contributory service, had ceased to be a contributory employee under one local authority and had become such an employee under another local authority, and for the purpose of calculating such amount his recognised service (if any) and his contributory service shall be deemed to have been contributing service and, as such, to have been affected or modified in accordance with Regulations applicable to contributing service made in connection with the passing of the National Insurance Acts, 1946 and 1959, in like manner and to the same extent, as nearly as may be, as his contributory service was affected or modified in accordance with Regulations made in connection with the passing of those Acts :

Provided that—

(*a*) the transfer value payable in respect of a person who ceased to be employed in contributory 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 ;

(*b*) Royal Air Force teaching service, Royal Navy teaching service and service as a civilian teacher in any Army children's school which is reckoned as recognised or contributory service at one-and-a-half times its actual length under Schemes made under Section 21 (1) (*b*) of the Act of 1925 shall be reckoned in like manner for the purposes of this Rule ;

(*c*) the transfer value shall be reduced by the value of any contributions the right to receive which is transferred to the Ministry of Finance under the provisions of Rules 6 or 7 of these Rules ; and

(*d*) the transfer value shall be reduced by any sum which may become payable by way of income tax in respect thereof.

Contributions Not Returnable

13. No return of contributions shall be made under the Teachers Acts 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 paid by the Minister under this part of these Rules.

(a) S.I. 1954/1212 (1954 II, p. 1723).

PART III—TRANSFER FROM THE CIVIL SERVICE OF NORTHERN IRELAND TO CONTRIBUTORY SERVICE

Reckoning of Civil Service for Purposes of Teachers Acts

14.—(1) Where—

(*a*) within twelve months of ceasing to be a civil servant or within six months of the termination of national service undertaken immediately after ceasing to be a civil servant a person becomes, or before the coming into operation of these Rules became, employed in contributory service with the consent of the Head Officer of the Department in which he was last employed as a civil servant, and

(*b*) the Minister receives from the Ministry of Finance a transfer value calculated in accordance with the provisions of Rule 21 of these Rules in respect of that person's service which is reckonable for the purpose of computing superannuation benefits under the Superannuation Acts, then—

(i) the period of service in respect of which the transfer value is paid shall, except as in these Rules provided, be reckoned as contributory service for the purposes of the Teachers Acts, and

(ii) any period of service which would have been reckonable for the purposes of the Superannuation Acts either solely for the purpose of computing superannuation benefits or solely for the purpose of determining whether the person had served for the minimum period required by those Acts as a condition for the payment of any pension to or in respect of him shall be similarly reckoned for the purposes of the Teachers Acts.

(2) In determining for the purposes of this Rule—

(*a*) whether a person has become employed in contributory service within twelve months of ceasing to be a civil servant or within six months of the termination of national service, and

(*b*) whether a person has undertaken national service immediately after ceasing to be a civil servant

no account shall be taken of any period between his ceasing to be a civil servant and his becoming employed in contributory service which he spent on a course of study or training if—

(i) his undertaking the course was approved by the Ministry of Finance on his written application made within three months of the commencement of the course, and

(ii) the Minister is satisfied that he has been made by the course better fitted for employment in contributory service.

Cases to which Rules do not Apply

15. This Part of these Rules shall not apply—

(*a*) to a person who has become eligible for a pension under the Superannuation Acts; or

(*b*) to a person who last ceased to be a civil servant before the 1st April, 1950; or

(*c*) to a person who ceased to be a civil servant after the 31st March, 1950, and before the date of the coming into operation of these Rules and to whom a superannuation allowance has been granted under the Teachers Acts; or

(*d*) to a person who ceased to be a civil servant after the 31st March, 1950, and before the coming into operation of these Rules unless the Minister agrees that this Part of these Rules shall apply to him ; or

(*e*) to a person who does not, within three months after the date on which he becomes employed in contributory service or within six months after the date of the coming into operation of these Rules, whichever is the later, give notice in writing to the Minister that he desires this Part of these Rules to apply to him and furnish the Minister with particulars of his service as a civil servant and of any national service in which he has been engaged after ceasing to be a civil servant.

Reckoning of National Service

16. The period of service of any person which is to be reckoned as contributory service for the purposes of the Teachers Acts in accordance with this Part of these Rules shall be treated as being increased by any period of national service in which that person was engaged after ceasing to be a civil servant and before becoming employed in contributory service if—

(*a*) the period of national service would have been reckonable as service for the purposes of the Superannuation Acts had that person again become employed as a civil servant on the termination of his national service ; and

(*b*) the transfer value received by the Minister is calculated so as to include the liability of which the Ministry of Finance is relieved in respect of the said period of national service.

Outstanding Payments in respect of Previous Employment

17. Where a person to whom this Part of these Rules applies was, at the date on which he ceased to be a civil servant, in course of making any payments as a condition of his service being treated for the purposes of the Superannuation Acts as increased by an additional period, the period of service which is to be reckoned as contributory service for the purposes of the Teachers Acts in accordance with this Part of these Rules shall be treated as being increased by such additional period if—

(*a*) the transfer value received by the Minister is calculated so as to include the liability of which the Ministry of Finance is relieved in respect of such additional period, after the deduction therefrom of the value of the payments which that person would have been liable to pay had he continued to be a civil servant ; and

(*b*) the person pays to the Minister sums equal to the payments which he would have been liable to pay as aforesaid at the times at which and in the manner in which those payments would have been made had he remained a civil servant.

Commencement of Civil Service to be deemed to be Commencement of Contributory Service

18. For the purposes of Section 3 (1) (*c*) of the Act of 1925, as amended by Section 8 of the Act, the date on which a person to whom this Part of these Rules applies became a civil servant shall be deemed to be a date on which he became employed in contributory service.

Civil Service not to be reckoned as contributory service for purposes of Section 2 (1) (*a*) (iv) *of the Act of* 1925

19. Service as a civil servant which is reckoned as contributory service by virtue of this Part of these Rules shall not count towards the minimum period of employment in recognised or contributory service necessary to

enable the Minister to determine certain other service to be recognised service under Section 2 (1) (*a*) (iv) of the Act of 1925.

Application of National Insurance (Modification of Teachers Pensions) Regulations

20. In the case of a person to whom this Part of these Rules applies who was, at the date when he ceased to be a civil servant, an insured person within the meaning of the National Insurance Act (Northern Ireland), 1946(a), the modifications of the Teachers Acts and other instruments relating to the superannuation of teachers effected by the National Insurance (Modification of Teachers Pensions) Regulations, 1948(b)—

(*a*) shall not apply if the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland), 1948(c), did not apply to him;

(*b*) shall apply as they apply to a new entrant if the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland), 1948, applied to him.

Amount of Transfer Value

21. Any transfer value receivable by the Minister from the Ministry of Finance in respect of a person to whom this Part of these Rules applies shall be an amount equal to the transfer value which would have been payable under the Local Government (Transfer Value) Regulations, 1954, if that person, at the date when he ceased to be a civil servant or ceased to be engaged in national service, as the case may be, had ceased to be a contributory employee under one local authority and had become such an employee under another local authority, and for the purpose of calculating such amount the service which is to be reckoned as contributory service under this Part of these Rules shall be deemed to have been contributing service and, as such, to have been affected or modified in accordance with Regulations applicable to contributing service made in connection with the passing of the National Insurance Acts, 1946 and 1959, in like manner and to the same extent, as nearly as may be, as his service as a civil servant was affected or modified in accordance with Regulations made in connection with the passing of the National Insurance Acts (Northern Ireland), 1946 and 1959:

Provided that—

(*a*) the transfer value receivable in respect of a person who ceased to be a civil servant more than twelve months before the date of the coming into operation of these Rules shall be calculated by reference to his age on that date;

(*b*) the transfer value receivable in respect of a person to whom Rule 14 (2) of these Rules applies shall be calculated by reference to his age on the date he becomes employed in contributory service; and

(*c*) the transfer value shall be reduced by any sum which may become payable by way of income tax in respect thereof.

(a) 1946, c. 23 (N.I.). (b) S.I. 1948/889 (Rev. XVI, p. 298: 1948 II, p. 2851).
(c) S.R. & O. (N.I.) 1948, No. 91.

Payment into Exchequer

22. All sums received by the Minister under these Rules whether by way of transfer value or otherwise shall be paid into the Exchequer.

Given under the Official Seal of the Minister of Education this 8th day of March, 1962.

(L.S.)

David Eccles,
Minister of Education.

Concur.

William Whitelaw,
Michael Noble,
Two of the Lords Commissioners of Her Majesty's Treasury.

15th March, 1962.

EXPLANATORY NOTE

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

The purpose of these Rules is to preserve the superannuation rights of persons who transfer between teaching service in England and Wales and the Civil Service of Northern Ireland.

The Rules provide that if a civil servant in Northern Ireland enters teaching service in England or Wales and the Minister of Education receives a transfer value from the Northern Ireland Ministry of Finance, his service as a civil servant shall be reckoned as contributory service under the Teachers (Superannuation) Acts. They also provide that if a teacher in England or Wales enters the Northern Ireland Civil Service, a transfer value shall be paid by the Minister of Education. Complementary rules are being made by the Northern Ireland Ministry of Finance so that teaching service in England or Wales may reckon for superannuation purposes as service as a civil servant.

In accordance with Section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948, the Rules may apply retrospectively to transfers which have already taken place; subject to the agreement of the employee and of the former employer, and to certain other conditions, they may apply to transfers which took place on or after 1st April, 1950, the earliest date from which such arrangements may be made under the Northern Ireland legislation.