1962 No. 864 (S. 34)

PENSIONS

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

Made - - - -	*24th April*, 1962
Laid before Parliament	*2nd May*, 1962
Coming into Operation	*3rd May*, 1962

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

PART I

INTRODUCTORY

Citation and commencement

1. These Rules may be cited as the Superannuation (Teaching and Northern Ireland Civil Service) Interchange (Scotland) Rules, 1962, and shall come into operation on 3rd May, 1962.

Scope

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 prescribes conditions for persons transferring from employment in first class service to employment in the permanent civil service of Northern Ireland; and

(*b*) Part III prescribes conditions for persons transferring from employment in the permanent civil service of Northern Ireland to employment in first class service.

Interpretation

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

(*a*) references to any enactment, regulation or rule shall be construed as references to that enactment, regulation or rule as amended by any subsequent enactment, regulation or rule or to any enactment, regulation or rule substituted for that enactment, regulation or rule; and

(*b*) references to a Part or to a rule are references to a Part of these Rules or to a rule of these Rules as the case may be.

(2) The Interpretation Act, 1889(b), applies 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.

Definitions

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

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

"the Act of 1946" means the Education (Scotland) Act, 1946(a);

"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 Regulations of 1957" means the Teachers (Superannuation) (Scotland) Regulations, 1957(b);

"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 section 103 of the Act of 1946;

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

"first class service" has the meaning assigned to it by the Regulations of 1957;

"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(d), 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 of 1948; and

"teacher" has the meaning assigned to it by Regulation 16 or Regulation 32, as the case may be, of the Regulations of 1957.

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

PART II

TRANSFER FROM FIRST CLASS SERVICE TO THE PERMANENT CIVIL SERVICE OF NORTHERN IRELAND

Reckoning of first class service as civil service

5. Where a person either—

(*a*) having been appointed a civil servant, takes up his duties, or before the date of the coming into operation of these Rules took up his duties, as such within a period of twelve months after ceasing to be employed in first class service, or

(a) 9 & 10 Geo. 6. c. 72.
(b) S.I. 1957/356 (1957 I, p. 733).
(c) 1 Edw. 8 & 1 Geo. 6. c. 69.
(d) 14 & 15 Geo. 6. c. 65.

(*b*) having been so appointed within the said period of twelve months, does not, or before the date of the coming into operation of these Rules did not, owing to causes which in the opinion of the Ministry of Finance and the Secretary of State are reasonable, take up his said duties until after the expiration of the said period—

a transfer value in respect of his first class service shall, except as in these Rules provided, be paid by the Secretary of State to the Ministry of Finance in accordance with the provisions of Rule 10.

6. This Part shall not apply to a person in any of the following categories—

(*a*) a person who has become entitled to a pension (other than a return of contributions) under the Regulations of 1957;

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

(*c*) a person who became a civil servant before the date of the coming into operation of these Rules, unless he is a civil servant on that date and the Secretary of State agrees that this Part shall apply to him;

(*d*) 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 to apply to him, and furnish that Ministry with particulars of his first class service;

(*e*) 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 Secretary of State may allow in any particular case, pay to the Ministry of Finance an amount equal to any return of contributions made to him under any provision of the Regulations of 1957, or under any corresponding provision now revoked but repeated in those Regulations, after he last ceased to be employed in first class service.

Arrears of contributions in respect of war service and national service

7. Where the first class service of a person to whom this Part applies includes a period of war service within the meaning of the Education (Scotland) (War Service Superannuation) Act, 1939(a), or a period of national service within the meaning of the Teachers' Pensions (National Service) (Scotland) Rules, 1952(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 Secretary of State at the date on which the Secretary of State pays the transfer value in respect of that person under this Part, then—

(*a*) the right to receive the sum outstanding, which shall include any sum due by virtue of section 3 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 first class service and any transfer value paid by the Secretary of State under these Rules in respect of that person's service shall be adjusted accordingly.

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

Transfer to Ministry of Finance of right to additional contributions

8. Where a person to whom this Part applies was, at the date on which he ceased to be employed in first class service, in course of making to the Secretary of State, as a condition of reckoning past service, any payments additional to the contributions required by section 103 of the Act of 1946, the right to receive the balance of the said payments shall be transferred to the Ministry of Finance.

Teacher returning to first class service from civil service

9. Where a person to whom this Part applies ceases to be a civil servant and becomes re-employed in first class service in circumstances in which Part III does not apply to him, any service in respect of which a transfer value was paid by the Secretary of State under this Part shall be treated under the Regulations of 1957, as third class service.

Payment of transfer value

10. The transfer value payable by the Secretary of State in respect of any person to whom this Part applies shall be an amount equal to the transfer value which would have been payable under the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1954(a), if that person, at the date when he ceased to be employed in first class 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 first class 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 to 1959, in like manner and to the like extent as nearly as may be, as his first class 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 first class 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*) the transfer value shall be reduced by the value of any such payments mentioned in Rules 7 and 8 as have not been made; and

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

11. No return of contributions shall be made under the Regulations of 1957 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 Secretary of State under this Part.

PART III

TRANSFER FROM THE PERMANENT CIVIL SERVICE OF NORTHERN IRELAND TO FIRST CLASS SERVICE

Reckoning of civil service as first class service

12.—(1) Where—

(*a*) within a period of twelve months after ceasing to be a civil servant or a period of six months after the termination of national service

(a) S.I. 1954/1256 (1954 II, p. 1736).

undertaken immediately after ceasing to be a civil servant a person becomes, or before the date of the coming into operation of these Rules became, employed in first class service, with the consent of the Head Officer of the Department in which he was last employed as a civil servant and

(*b*) the Secretary of State receives from the Ministry of Finance a transfer value calculated in accordance with the provisions of Rule 18 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 first class service for the purposes of the Regulations of 1957, 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 Regulations of 1957.

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

(*a*) the time which has elapsed between a person's ceasing to be a civil servant and his becoming employed in first class 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 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 before or within three months after the commencement of the course, and

(ii) the Secretary of State is satisfied that he has been made by the course better fitted for employment in first class service.

13. This Part shall not apply to a person in any of the following categories—

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

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

(*c*) a person who ceased to be a civil servant before the date of the coming into operation of these Rules and to whom a superannuation allowance has been granted under the Regulations of 1957;

(*d*) any other person who ceased to be a civil servant before the date of the coming into operation of these Rules unless the Secretary of State agrees that this Part shall apply to him;

(*e*) a person who does not, within three months after the date on which he is informed that the Regulations of 1957 apply to him 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 Secretary of State that he desires this Part to apply to him and furnish the Secretary of State 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 as first class service

14. The period of service of any person which is to be reckoned as first class service for the purposes of the Regulations of 1957, in accordance with this Part 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 first class 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 Secretary of State 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.

Reckoning of additional periods of civil service

15. Where a person to whom this Part 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 first class service for the purposes of the Regulations of 1957 in accordance with this Part shall be treated as being increased by such additional period if—

(*a*) the transfer value received by the Secretary of State 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 make had he continued to be a civil servant; and

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

Commencement of qualifying period where civil servant has become a teacher

16. For the purposes of paragraph (3) of Regulation 39 of the Regulations of 1957, the date on which a person to whom this Part applies became a civil servant shall be deemed to be a date on which he became employed in first class service.

Application of National Insurance modifications

17. In the case of a person to whom this Part applies and 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 National Insurance modifications relating to the superannuation of teachers effected by the Regulations of 1957 shall apply to that person as they apply to—

(*a*) a teacher of the first category if the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland), 1948(b), applied to that person; or

(*b*) a teacher of the third category if the National Insurance (Modification of the Superannuation Acts) Regulations (Northern Ireland), 1948, did not apply to that person.

(a) 1946, c. 23 (N.I.). (b) S.R. & O. (N.I.) 1948, No. 91.

Calculation of transfer value

18. Any transfer value receivable by the Secretary of State from the Ministry of Finance in respect of a person to whom this Part applies shall be an amount equal to the transfer value which would have been payable under the Local Government Superannuation (Transfer Value) (Scotland) 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 first class service under this Part 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 to 1959, in like manner and to the like 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 to 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 paragraph (2) of Rule 12 applies shall be calculated by reference to his age on the date he becomes employed in first class service; and

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

Disposal of sums received under these Rules

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

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

St. Andrew's House,
Edinburgh, 1.

24th April, 1962.

We consent,

24th April, 1962.

Francis F. Pearson,
Michael Noble,
Two of the Lords Commissioners of Her Majesty's Treasury.

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 provide for the preservation of the superannuation rights of persons who transfer from pensionable service under the Teachers (Superannuation) (Scotland) Regulations, 1957, to pensionable service under the Superannuation Acts in the civil service of Northern Ireland, or vice versa. Where such a transfer is made the person is enabled to reckon the whole of his pensionable service for pension under the superannuation system to which he transfers.

The retrospective application of the Rules is made under the express powers given by, and subject to the conditions prescribed in, section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948.