1969. No. 175 **[C]**

EDUCATION

Superannuation

Interchange between the Teaching Service in Northern Ireland and certain Public Boards

RULES, DATED 2ND JULY 1969, MADE BY THE MINISTRY OF EDUCATION UNDER SECTIONS 12A AND 12B OF THE TEACHERS (SUPERANNUATION) ACT (NORTHERN IRELAND) 1950, WITH THE APPROVAL OF THE MINISTRY OF FINANCE.

The Ministry of Education (hereinafter referred to as "the Ministry") in exercise of the powers conferred on it by Sections 12A and 12B of the Teachers (Superannuation) Act (Northern Ireland) 1950(a) and of all other powers enabling it in that behalf, and with the approval of the Ministry of Finance, hereby makes the following rules:—

PART I

GENERAL

Citation and Commencement

1. These Rules may be cited as the Superannuation (Teaching and Public Boards) Interchange Rules (Northern Ireland) 1969.

Interpretation

2.—(1) In these Rules—

"the Act" means the Teachers (Superannuation) Act (Northern Ireland) 1950;

"contributing service", "non-contributing service" and "contributory employee" have the same respective meanings as in the Local Government Superannuation Acts 1937 to 1953(b);

"national service" means, in relation to any person, service which is relevant service within the meaning of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(c) and any similar service immediately following relevant service entered into with the consent of the 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", in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a lump sum or a gratuity so payable and a return of contributions to a pension fund, with or without interest thereon or any other addition thereto;

(a) 1950. c. 33. (b) 1937. c. 68; 1939. c. 18; 1953. c. 25. (c) 14 & 15 Geo. 6. c. 65.

"pension authority" means the persons or body administering the public board pension scheme to which a person either becomes subject after ceasing to be employed in teaching service or, as the case may be, was last subject before he became employed in teaching service;

"prescribed period" has the meaning assigned to that expression by rule 3;

"public board" means a body employment under which is named in the Schedule to these Rules;

"public board employment" means an employment named in the Schedule to these Rules;

"public board pension scheme" means a scheme by which provision is made for pensions for persons employed by a public board;

"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; or

(*b*) service which, under the provisions of any scheme made under Section 42(1) of the Act, is treated in the same manner as service which is approved external service under Section 13 of the Act; or

(*c*) service in respect of which the person 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 recognised or contributory service) which he has not subsequently repaid to the Ministry under the proviso to Section 10(2) of the Act; or

(*d*) service which is treated as recognised or contributory service merely for the purpose of determining whether the person in question has completed the period of service required by the Teachers Acts as necessary for any superannuation benefit 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;

"repaid contributions" means any sum paid to a person under the Act or a public board pension scheme by way of repayment of contributions (other than voluntary contributions and contributions made or deemed to be made for the purpose of securing benefits for a widow, children or other dependants); and includes both any interest included in such sum and any amount deducted therefrom in respect of income tax;

"the Teachers Acts" means the Teachers (Superannuation) Acts (Northern Ireland) 1950 to 1967;

"teaching service" means contributory service or recognised service;

"transfer value" has the same meaning as "accrued Superannuation Value" as that expression is defined in the Act;

"the Transfer Value Regulations" means the Local Government Superannuation (Transfer Value) Regulations 1954(**d**);

"voluntary contributions" means—

(*a*) in relation to employment in teaching service, additional contributions being paid under Section 20 of the Teachers (Superannuation) (Amendment) Act (Northern Ireland) 1956(**e**) 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

(**d**) S.I. 1954/1212 (1954 II, p. 1723). (**e**) 1956. c. 22.

(*b*) in relation to public board employment, payments (other than completed payments, that is to say, payments made in respect of a liability which has been wholly discharged) being made as a condition of—

(i) any period (not being a period of war service or national service) being added to actual employment and treated as pensionable; or

(ii) any period of employment being reckoned for the purpose of calculating benefits or being so reckoned at a value greater than that at which it would otherwise be reckonable.

(2) For the purposes of these Rules a person to whom a public board pension scheme applies shall be deemed to be employed by the public board for persons employed by which that scheme makes provision for pensions.

Prescribed Period

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

(*a*) in the case of a person who, immediately after ceasing to be employed in teaching service or in public board employment became engaged in national service, a period of six months after the date of termination of the national service; and

(*b*) in the case of any other person, a period of twelve months after the date on which he ceased to be employed in teaching service or in public board employment.

(2) The Ministry in the case of a person becoming employed in teaching service, and the pension authority in the case of a person becoming employed in public board employment may, with the agreement of the other, in any particular case extend the period of six months or twelve months, whichever is appropriate, specified in paragraph (1).

(3) Subject as in paragraph (4) provided—

(*a*) in reckoning the periods of six months and twelve months specified in paragraph (1) no account shall be taken of any period spent by a person on a course of study or training which he undertook after leaving his former employment;

(*b*) if a person left his former employment in order to undertake a course of study or training and on completion of that course became engaged in national service, he shall be deemed for the purposes of paragraph (1) to have left his former employment at the time when he completed the said course of study or training.

(4) The provisions of paragraph (3) shall not apply—

(*a*) to a person to whose new employment a public board pension scheme applies unless the pension authority are satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of his new employment; or

(*b*) to a person who in his new employment is in teaching service unless—

(i) before leaving his former employment (or, if between leaving that employment and undertaking the said course of study or training he was engaged in national service, before the end of that service) he gave notice in writing to the pension authority of his intention to undertake the said course of study or training; and

(ii) the Ministry is satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of his new employment.

Equivalent Pension Rights

4. A transfer value shall not be paid or received by the Ministry under these Rules in respect of a person transferring to or from public board employment unless the Ministry is satisfied that that person's pension rights in respect of that employment are, or will be, at least substantially equivalent to those in respect of teaching service.

PART II

TRANSFER FROM TEACHING SERVICE TO PUBLIC BOARD EMPLOYMENT

Application

5.—(1) Subject as in Rule 6 provided, this Part shall apply to a person who—

(*a*) becomes employed in public board employment within the prescribed period after ceasing to be employed in teaching service; and

(*b*) has not become entitled to any pension (other than repayment of contributions) under the Act.

(2) This Part shall apply to such person as aforesaid and shall be deemed to have applied to him notwithstanding that he ceased to be employed in teaching service or became employed in public board employment before the passing of the Act or the coming into operation of these rules:

Provided that—

(*a*) he ceased to be employed in teaching service not earlier than the 1st day of April 1950; and

(*b*) the Ministry and the pension authority consent.

Conditions for Application

6.—(1) This Part shall not apply to a person unless—

(*a*) within the period specified in paragraph (2), or within such longer period as the pension authority may with the agreement of the Ministry in any particular case allow, he notifies that authority in writing that he desires this Part to apply to him and furnishes that authority with particulars in writing of his teaching service; and

(*b*) within the period defined in paragraph (2), or within such longer period as the pension authority may in any particular case allow, he pays to that authority an amount equal to any repaid contributions paid to him after he last ceased to be employed in teaching service, together with compound interest thereon of an amount determined in accordance with paragraph (3).

(2) For the purposes of paragraph (1) the period shall be three months after the date of becoming employed in public board employment or six months after the operative date, whichever period last expires.

(3) For the purposes of paragraph (1)—

(*a*) compound interest shall not be payable unless the period between a person's ceasing to be employed in teaching service and becoming employed in public board employment exceeds one year;

(*b*) if the aforesaid period exceeds one year, compound interest shall be calculated on the amount of the repaid contributions at three per cent. per annum with yearly rests from the date one year after that on which the person ceased to be employed in teaching service to the date on which he became employed in public board employment; and

(*c*) if the amount of compound interest calculated as aforesaid exceeds a sum equal to one half of the difference between the amount of the transfer value payable under rule 7 and the amount of the transfer value which would have been so payable if calculated by reference to the person's age on ceasing to be employed in teaching service, it shall be reduced to that sum.

Transfer Value

7.—(1) In respect of a person to whom this Part applies the Ministry shall, out of moneys provided by Parliament, pay to the pension authority a transfer value of an amount 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 Transfer Value Regulations 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 his recognised service (if any) and his contributory service.

(3) For the purposes of paragraph (2) 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(**f**), or under any provision corresponding thereto contained in an enactment repealed by that Act, in like manner and to the like intent, as nearly as may be, as it was affected or modified by the National Insurance (Modification of Teachers Annual Allowances) Regulations (Northern Ireland) 1951(**g**).

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

(*a*) any period of war service within the meaning of the Teachers' Salaries and Superannuation (War Service) Act (Northern Ireland) 1939(**h**) and of relevant service within the meaning of the Teachers Superannuation (Service in the Reserve and Auxiliary Forces) Rules (Northern Ireland) 1958(**i**) in respect of which at the time the transfer value is paid, 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 and in respect of which, at the time the transfer value is paid, he has not elected to continue to pay such contributions; and

(*c*) any period of contributory service under a scheme made under Section 42(1A) of the Act.

(5) The amount of the transfer value payable in respect of a person shall, in lieu of being reduced in accordance with the proviso to paragraph 2 of the First Schedule to the Transfer Value Regulations, be reduced by—

(f) 1965. c. 51.
(g) S.R. & O. (N.I.) 1951, No. 129.
(h) 2 & 3 Geo. 6. c. 33.
(i) S.R. & O. (N.I.) 1958, No 97.

(*a*) an amount equal to the sum of any repaid contributions paid to him after he last ceased to be employed in teaching service and any compound interest thereon payable in accordance with rule 6(3);

(*b*) an amount equal to any sum which remained to be paid by him on his ceasing to be employed in teaching service towards the discharge of a fixed sum as a condition of any period of service being reckoned for the purposes of the Act;

(*c*) an amount equal to the capital value of any voluntary contributions which on his ceasing to be employed in teaching service remained to be paid by him in respect of any period not excluded from the calculation of the amount of the transfer value by paragraph (4)(*b*); and

(*d*) an amount equal to any sum payable by the Ministry by way of income tax by reason of its payment.

(6) In respect of a person who ceased to be employed in teaching service more than one year before the operative date the amount of the transfer value shall, except in a case to which paragraph (7) applies, be calculated by reference to his age on that date.

(7) In respect of a person who became employed in public board employment on or after the operative date and to whom either paragraph (2) or paragraph (3) of rule 3 applies the amount of the transfer value shall be calculated by reference to his age on the date on which he became employed in public board employment.

Benefits under the Act

8.—(1) Subject to the provisions of Part III and any provisions similar thereto contained in other rules made under the Act, no payment of any pension shall be made under the Act to any person or his legal personal representatives in respect of any service which is taken into account in calculating the amount of a transfer value under rule 7.

(2) If a person to whom this Part applies ceases to be employed in public board employment and becomes re-employed in teaching service in circumstances in which neither the provisions of Part III nor any provisions similar thereto contained in other rules made under the Act apply to him, any service in respect of which a transfer value was paid under this Part shall be qualifying service for the purposes of the Act.

Part III

Transfer from Public Board Employment to Teaching Service

Application

9.—(1) Subject as in rule 10 provided, this Part shall apply to a person who—

(*a*) becomes employed in teaching service within the prescribed period after ceasing to be employed in public board employment; and

(*b*) has not become entitled to any pension (other than repayment of contributions) under a public board pension scheme.

(2) This Part shall apply to such person as aforesaid and shall be deemed to have applied to him notwithstanding that he ceased to be employed in public board employment or became employed in teaching service before the passing of the Act or the coming into operation of these rules;

Provided that—

(*a*) he ceased to be employed in public board employment not earlier than the 1st day of April 1950; and

(*b*) the Ministry consents.

Conditions for Application

10.—(1) This Part shall not apply to a person unless—

(*a*) within the period defined in paragraph (2), or within such longer period as the Ministry may with the agreement of the pension authority in any particular case allow, he notifies the Ministry in writing that he desires this Part to apply to him and furnishes the Ministry with particulars in writing of his public board employment;

(*b*) within the period specified in paragraph (2), or within such longer period as the Ministry may in any particular case allow, he pays to the Ministry an amount equal to any repaid contributions paid to him after he last ceased to be employed in public board employment; and

(*c*) in respect of him the Ministry receives from the pension authority a transfer value of an amount determined in accordance with the provisions of rule 11.

(2) For the purposes of paragraph (1) the period shall be three months after the date of becoming employed in teaching service or six months after the operative date, whichever period last expires.

Transfer Value

11.—(1) Subject as hereafter in this rule provided, the amount of the transfer value receivable by the Ministry from the pension authority in respect of a person to whom this Part applies shall be equal to the transfer value which would have been payable under the Transfer Value Regulations if the person, at the date when he ceased to be employed in public board employment, 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—

(*a*) as non-contributing service, any service which was originally non-contributing service and which, under the public board pension scheme last applicable to him, was treated in like manner as non-contributing service is treated under the Local Government Superannuation Acts 1937 to 1953 and regulations made thereunder; and

(*b*) as contributing service, any service (other than that specified above) which he was entitled to reckon for the purpose of computing benefits under the public board pension scheme last applicable to him.

(2) For the purposes of paragraph (1) service which is reckoned as contributing or non-contributing service shall be deemed to have been affected or modified in accordance with the National Insurance (Modification of Teachers Annual Allowances) Regulations (Northern Ireland) 1951 or the National Insurance (Modification of Teachers Superannuation Acts) Regulations (Northern Ireland) 1963, in like manner and to the like extent, as nearly as may be, as it was affected or modified by provisions in connection with national insurance contained in or relating to a public board pension scheme.

(3) The amount of the transfer value shall be reduced by an amount equal to any sum payable by the pension authority by way of income tax by reason of its payment.

(4) In respect of a person who ceased to be employed in public board employment more than one year before the operative date the amount of the

transfer value shall, except in a case to which paragraph (5) applies, be calculated by reference to his age on that date.

(5) In respect of a person who became employed in teaching service on or after the operative date and to whom either paragraph (2) or paragraph (3) of rule 3 applies the amount of the transfer value shall be calculated by reference to his age on the date on which he became employed in teaching service.

Reckoning of Service

12.—(1) Subject as hereafter in this rule provided, in respect of a person to whom this Part applies—

(*a*) there shall be reckoned as contributory or recognised service—

(i) any period of service treated as contributing service for the purpose of calculating the amount of the transfer value payable under this Part; and

(ii) one-half of any period of service treated as non-contributing service for the said purpose; and

(*b*) any period of service treated as non-contributing service for the said purpose shall be treated as approved external service for the purposes of Section 13 of the Act, except in so far as that service is reckoned under this rule as contributory or recognised service.

(2) The whole of any period of service to which paragraph (1) applies shall, for the purpose of calculating under Section 7(2) of the Act the average salary of a person to whom this Part applies, be reckoned as a period of employment in contributory service.

(3) Notwithstanding anything in this rule before contained, any service of a person to whom this Part applies which under the public board pension scheme last applicable to him was at the time he ceased to be employed in public board employment reckonable only for the purpose of calculating the amount of any pension payable to or in respect of him or only for the purpose of determining whether he was entitled to any pension shall be reckoned only for the corresponding like purpose under the Act.

Voluntary Contributions

13.—(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 Ministry may in any particular case allow, elect to continue to pay voluntary contributions being paid by him immediately before ceasing to be employed in public board employment.

(2) If a person elects as aforesaid and—

(*a*) within three months of becoming employed in teaching service, or within such longer period as the Ministry may in any particular case allow, pays to the Ministry a sum equal to the sum of any payment made to him on or after ceasing to be employed in public board employment by way of return of voluntary contributions, any interest added thereto and any deduction therefrom in respect of income tax; and

(*b*) thereafter pays to the Ministry any amounts outstanding in respect of voluntary contributions at the times at which they would have been payable if he had remained in public board employment

his teaching service shall be affected in the same manner, as nearly as may be, as his public board employment would have been affected if he had completed payment of the voluntary contributions immediately before ceasing such employment.

(3) The provisions of rules 7, 8, 10, 11, 12 and 13 of the Teachers Superannuation (Previous Employment) Rules (Northern Ireland) 1959(j), relating to additional contributions payable for the purposes of Section 20 of the Teachers (Superannuation) (Amendment) Act (Northern Ireland) 1956, 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 Rules but with the modifications that in rule 7(1) of those Rules the words from "until he attains the age of 60 years" to the end of the paragraph and in rule 13 of those Rules the words "he shall not be entitled to reckon any period of previous employment as contributory service under Section 20 of the Act of 1956 and in such a case" shall be deemed to be omitted.

(4) If a person does not elect as aforesaid or if voluntary contributions are repaid to him under rule 13 of the Teachers Superannuation (Previous Employment) Rules (Northern Ireland) 1959 as applied by this rule, the period in respect of which such contributions were paid shall be reckoned for the purposes of the Act 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

14. For the purposes of Section 3(1)(*b*) of the Act the date on which a person to whom this Part applies became employed in public board employment shall be deemed to be a date on which he became employed in contributory or recognised service.

Return of Contributions

15.—(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 legal personal representatives shall be entitled under the Act, there shall be included a sum in respect of contributions paid by him in respect of service which by virtue of these Rules is reckoned as contributory or recognised service and, in the case of a person who has elected in pursuance of rule 13 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 Ministry under rule 13 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 Section 10 of the Act.

Modification of Contributions and Benefits by reason of National Insurance

16.—(1) In this rule—

"the teachers modification provisions" means the modifications of the Teachers Acts and other instruments relating to the superannuation of teachers prescribed by the National Insurance (Modification of Teachers Annual Allowances) Regulations (Northern Ireland) 1951;

(j) S.R. & O. (N.I.) 1959, No. 72.

"existing teacher" and "new entrant" have the same respective meanings as in the National Insurance (Modification of Teachers Annual Allowances) Regulations (Northern Ireland) 1951;

"scheme modification provisions" means any provisions contained in or relating to a public board pension scheme whereby the benefits provided under that scheme are modified by reason of the passing of the National Insurance Act 1946(k) or any statutory amendment or re-enactment thereof.

(2) The provisions of this rule shall have effect for the purpose of determining whether and in what manner the teachers modification provisions shall apply in relation to a person to whom this Part of these Rules applies.

(3) In the case of a person—

(*a*) whose service to be reckoned as contributory or recognised service under these Rules commenced on or before 5th July 1948; and

(*b*) in respect of whom the transfer value received by the Ministry is not reduced in accordance with Part IV of the Transfer Value Regulations

the teachers modification provisions shall not apply.

(4) In the case of a person—

(*a*) whose service to be reckoned as contributory or recognised service under these Rules includes service which commenced on or before 5th July 1948 in respect of which he was affected by scheme modification provisions; and

(*b*) in respect of whom the transfer value is reduced in accordance with Part IV of the Transfer Value Regulations

the teachers modification provisions shall apply as they apply in the case of an existing teacher and, for the purpose of those provisions, the date of modification shall be deemed to be the date on which scheme modification provisions first affected him.

(5) In the case of a person to whom, before he became employed in public board employment, the teachers modification provisions applied as they apply in the case of an existing teacher, those provisions shall again apply in like manner.

(6) In the case of a person to whom none of the last three foregoing paragraphs applies, the teachers modification provisions shall apply as they apply in the case of a new entrant.

Payment into Exchequer

17. All sums received by the Ministry in relation to a person to whom this Part applies whether by way of transfer value or otherwise shall be paid into the Exchequer and under the provisions of Section 2(3)(*d*) of the Teachers (Superannuation) (Amendment) Act (Northern Ireland) 1956 shall be treated as revenue of the Teachers Superannuation Account.

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

SCHEDULE

Rules 2, 5 and 9.

1. Employment under the British Broadcasting Corporation which is pensionable under the British Broadcasting Corporation Pension Scheme.
2. Employment under the Independent Television Authority which is pensionable under the Independent Television Authority Staff Pension Plan.
3. Employment under the British Council which is pensionable under the British Council Superannuation Scheme.
4. Employment under the Electricity Council, the Central Electricity Generating Board or any of the Area Electricity Boards which is pensionable under the Electricity Supply (Staff) Superannuation Scheme or the Electricity Supply (Manual Workers) Superannuation Scheme.
5. Employment under the United Kingdom Atomic Energy Authority or the Science Research Council which is pensionable under the United Kingdom Atomic Energy Authority's Principal Non-Industrial Superannuation Scheme, Industrial Superannuation Scheme or Protected Persons Superannuation Scheme.

Sealed with the Official Seal of the Ministry of Education this 2nd day of July 1969.

(L.S.) *J. Finney,*
Assistant Secretary.

The Ministry of Finance hereby approves the foregoing rules.

Sealed with the Official Seal of the Ministry of Finance this 2nd day of July 1969.

(L.S.) *R. M. MacDonald,*
Assistant Secretary.

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 continuity of superannuation rights of persons who transfer between teaching service in Northern Ireland and certain Public Boards.

The rules provide:—

(*a*) that if a person in the employment of one of the Public Boards transfers to teaching service and a transfer value is paid to the Ministry of Education the period of employment in the Public Board may be reckoned for pension under the Teachers (Superannuation) Acts; and

(*b*) that if a teacher transfers to employment under one of the Public Boards a transfer value may be paid by the Ministry of Education.