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

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

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

We consent,

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

21st February, 1951.

EXPLANATORY NOTE

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

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

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

The Superannuation (Teaching and Public Boards) Rules, 1951

1951 No. 1852

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

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

PART I—INTRODUCTORY

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

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

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

(3) In these rules, unless the context otherwise requires:—

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

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

"the Teachers Acts" means the Teachers (Superannuation) Acts, 1918 to 1946;

"the appropriate superannuation fund" means, in relation to any person to whom Part II or Part III of these rules applies, the fund of the Public Board Pensions Scheme to which he is or was last a contributor as the case may be;

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

"contributing service" has the meaning ascribed to that expression by the Local Government Superannuation Act, 1937(**b**);

"contributory employee" has the meaning ascribed to that expression by the last mentioned Act;

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

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

(ii) 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

(iii) 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

(iv) 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;

"national service", in relation to any person, means compulsory national service within the meaning of the Act, and includes any period immediately following the termination thereof during which the person with the consent of the body by whom he was employed before undertaking compulsory national service continues in similar service;

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

"Public Board" means the National Coal Board, the British Electricity Authority, an Area Electricity Board, the North of Scotland Hydro Electric Board, or the Port of London Authority;

(**a**) 15 & 16 Geo. 5. c. 59. (**b**) 1 Edw. 8. & 1 Geo. 6. c. 68.

"Public Board pension scheme" means, in relation to any person, the pension scheme to which that person is or was a contributor in respect of his employment in the service of a Public Board, being a pension scheme administered by that Board or a pension scheme relating to various Public Boards in which that Board participates;

"Public Board employment" means employment in the service of a Public Board pensionable under a Public Board pension scheme, and "pensionable employee" means a person so employed;

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

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

(*b*) other expressions which have meanings assigned to them by any of the above-mentioned Acts shall have the same respective meanings for the purposes of these rules;

(*c*) any reference to the provisions of any enactment, rules or regulations shall be construed as a reference to those provisions as amended by any subsequent enactment or other instrument.

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 to Public Board employment;

(*b*) Part III of these rules prescribes conditions for persons transferring from Public Board employment to employment in contributory service; and

(*c*) Part IV of these rules prescribes conditions for the treatment of Public Board employment as approved external service.

Part II.—Transfer from Employment in Contributory Service to Public Board Employment

3.—(1) Where a person, without having become entitled to pension under the Teachers Acts other than a return of contributions, becomes or has, before the date of the coming into operation of these rules, become a pensionable employee of a Public Board within twelve months after ceasing to be employed in contributory service or within such longer period as the Minister may allow in any particular case, a transfer value in respect of his recognised service (if any) and his contributory service, other than contributory service under a scheme made under Section 21 (1) (*a*) of the Act of 1925, shall be paid by the Minister in accordance with the provisions of Rule 10 of these rules and save as provided in these rules, no return of contributions in respect of the service for which such transfer value is paid shall be made under the Teachers Acts to him or his legal personal representatives.

(2) This Part of these rules shall apply to a person as aforesaid notwithstanding that the cessation of his employment in contributory service or the commencement of his Public Board employment was before the date of the coming into operation of these rules or before the 28th May, 1948, being the date of the passing of the Act, but shall not apply—

(*a*) to a person who has not been employed in recognised or contributory service other than contributory service under a scheme made under Section 21 (1) (*a*) of the Act of 1925; or

(a) S.R. & O. 1939 (No. 329) II, p. 2604.

(*b*) to a person who became a pensionable employee of a Public Board before the date of the coming into operation of these rules unless the Minister and that Board agree that this Part of these rules shall apply to him ; or

(*c*) to a person who does not, within three months after the date on which he becomes a pensionable employee of a Public Board or within six months after the date of the coming into operation of these rules, whichever is the later date—

(i) give notice in writing to the Public Board that he desires this Part of these rules to apply to him and furnish that Board with particulars of his previous pensionable employment ; and

(ii) pay to the appropriate superannuation fund 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.

4.—(1) 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 the sum due in respect of contributions in respect of the whole or any part of such war service or national service payable by that person in accordance with the aforesaid Act or the aforesaid rules has not been paid to the Minister at the date on which the Minister pays a transfer value in respect of that person under this Part of these rules, then

(*a*) the right to receive the sum outstanding, which expression 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 Public Board ; and

(*b*) unless the said sum is paid by that person to the appropriate superannuation fund within such time as the Public Board maintaining that fund may 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 rule 3 of these rules in respect of that person's service shall be adjusted accordingly.

(2) In the case of any person as aforesaid any employer's contributions payable under rule 6 of the Teachers Superannuation (Employer's Contributions) Rules, 1928(**c**), which are outstanding at the date on which the Minister pays a transfer value in respect of that person under rule 3 of these rules shall be paid forthwith by the employer to the Minister and if they are not so paid shall be deducted from any grant payable to that employer by the Minister.

5. Where a person to whom this Part of these rules applies was, at the date on which he ceased to be in contributory service, in course of making to the Minister, as a condition of reckoning past service, any payments or contributions additional to those required by Section 9 of the Act of 1925, the right to receive the balance of the said payments or contributions shall be transferred to the Public Board of whom that person is a pensionable employee.

6. In the case of a person who becomes subject to the provisions of this Part of these rules, Section 124 (5) (*c*) of the Local Government Act, 1929(**d**), 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.

(**a**) 2 & 3 Geo. 6. c. 95.
(**b**) S.I. 1949 (No. 468) I. p. 1533.
(**c**) S.R. & O. 1928 (No. 200) p. 470.
(**d**) 19 & 20 Geo. 5. c. 17.

7. Where a person having previously been employed in recognised or contributory service becomes employed in service in Scotland which is approved external service for the purposes of Section 13 (1) (*a*) of the Act of 1925 and subsequently becomes a pensionable employee, then, if a transfer value in respect of his approved external service becomes payable to the Public Board under rules made by the Secretary of State under Section 2 of the Act, a transfer value in respect of his recognised service, if any, and his contributory service, other than contributory service under a scheme made under Section 21 (1) (*a*) of the Act of 1925, shall be payable by the Minister to the appropriate superannuation fund.

8. 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 pension granted to him when he ceases to be a pensionable employee, 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 said pension would have been increased if his service before the said date had been treated as recognised service.

9. Where a person to whom this Part of these rules applies ceases to be employed in Public Board employment and becomes 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.

10.—(1) In respect of any person to whom this Part of these rules applies, not being a person to whom rule 7 of these rules applies, the transfer value to be paid by the Minister shall be paid by him to the appropriate superannuation fund maintained by the Public Board by whom that person was first employed after ceasing to be employed in contributory service and shall be an amount equal to the transfer value which would have been payable under the provisions of the Regulations of 1939 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 been entitled to reckon his recognised service (if any) and his contributory service as contributing service and had become such an employee under another local authority:

Provided that—

(i) 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;

(ii) the transfer value shall be reduced by any payments or contributions the right to receive which is transferred to the Public Board under the provisions of rule 4 or rule 5 of these rules; and

(iii) Royal Air Force teaching service which is reckoned as recognised or contributory service at one-and-a-half times its actual length under the scheme made on the 2nd May, 1930(**a**), under Section 21 (1) (*b*) of the Act of 1925, shall be computed in like manner for the purposes of this rule.

(2) The foregoing provisions of this rule shall apply to a person to whom rule 7 of these rules applies: provided that any reference to cessation of employment in contributory service shall be deemed to be a reference to

(a) S.R. & O. 1930 (No. 309) p. 486.

cessation of employment in service in Scotland and the reference to the coming into operation of these rules shall be deemed to be a reference to the coming into operation of the rules made by the Secretary of State which are mentioned in rule 7.

PART III—TRANSFER FROM PUBLIC BOARD EMPLOYMENT TO EMPLOYMENT IN CONTRIBUTORY SERVICE

11.—(1) Where a person, without having become entitled to pension, other than a return of contributions, under the Public Board pension scheme to which he was last a contributor, becomes employed in contributory service within twelve months after ceasing to be a pensionable employee of a Public Board or within such longer period as the Minister may allow in any particular case, then, if the Minister receives from the appropriate superannuation fund a transfer value calculated as provided by rule 18 of these rules in respect of the service which that person was entitled to reckon for the purposes of the said pension scheme immediately before he ceased to be in Public Board employment, such service, subject as in these rules provided, shall be reckoned as contributory service for the purposes of the Teachers Acts.

(2) Public Board employment of a person which would have been reckonable solely for the purpose of determining whether any pension was payable to or in respect of that person shall not be reckonable as contributory service except for the sole purpose of determining whether he has served in recognised or contributory service for the minimum period laid down by the Teachers Acts as necessary in order that any pension may be paid to or in respect of him.

(3) This Part of these rules shall apply to a person as aforesaid notwithstanding that the cessation of his Public Board employment or the commencement of his employment in contributory service was before the date of the coming into operation of these rules or before the 28th May, 1948, being the date of the passing of the Act, but shall not apply—

(*a*) to a person who ceased to be in Public Board employment and became employed in contributory service before the date of the coming into operation of these rules unless the Minister agrees that this Part of these rules shall apply to him ; or

(*b*) 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—

(i) 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 previous pensionable service ; and

(ii) pay to the Minister an amount equal to any sum received by him from the appropriate superannuation fund by way of return of contributions, not being contributions made or deemed to be made for the purpose of securing benefits for his widow, children or other dependants, on or after the cessation of his Public Board employment.

12. 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 rule 11 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

pensionable employee and before becoming employed in contributory service if—

(*a*) that period of national service would have been reckonable as pensionable service for the purposes of the Public Board pension scheme had that person again become a pensionable employee of a Public Board on the termination of his national service ; and

(*b*) the transfer value to be received by the Minister from the appropriate superannuation fund is calculated so as to include the liability of which the Public Board maintaining that fund is relieved in respect of the said period of national service.

13. Where any person to whom this Part of these rules applies had agreed to make but had not completed making additional contributions under the pension scheme applicable to him as a pensionable employee of a Public Board in consideration of his service with the Public Board being treated for pension purposes 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 rule 11 of these rules shall be treated as being increased by such additional period if—

(*a*) the transfer value to be received by the Minister from the appropriate superannuation fund is calculated so as to include the liability of which the Public Board maintaining that fund is relieved in respect of the said additional period, after the deduction therefrom of the value of the additional contributions which the person would have been liable to pay had he continued in the pensionable employment of the Public Board ; and

(*b*) the person pays to the Minister sums equal to the additional contributions which he would have been liable to pay as aforesaid, at the times at which and in the manner in which those additional contributions would have become due to the Public Board.

14. Where a person to whom this Part of these rules applies ceases to be employed in contributory service or dies, then, in computing the sum to which he or his legal personal representatives shall be entitled under Section 12 of the Act of 1925, there shall be included a sum in respect of contributions paid or any additional contributory payments made by him in respect of service which by virtue of these rules has become reckonable as contributory service, and in computing the amount of the sum so included : —

(*a*) as respects the period ending immediately before the date on which he became employed in contributory service, interest, if any, shall be calculated in the manner in which it would have been calculated if he had received a return of contributions immediately before that date, or, if he received a return of contributions before that date, up to the date of such return ; and

(*b*) as respects the period beginning with that date, compound interest shall be calculated in accordance with the provisions of Section 12 of the Act of 1925 :

Provided that the sum to be included as aforesaid shall be exclusive of contributions made or deemed to be made by the person for the purpose of securing benefits for his widow, children or other dependants.

15. For the purposes of Section 3 (1) (*c*) of the Act of 1925 as amended by Section 8 of the Act, any date on which a person to whom this Part of these rules applies entered Public Board employment shall be deemed to be a date on which he became employed in contributory service.

16. The provisions of Section 2 (1) (*a*) (iv) of the Act of 1925 which prevent the Minister from determining certain service as recognised service unless the teacher in question has been employed in some other form of recognised or contributory service for not less than ten years shall be read as if the reference to " contributory service " did not include Public Board employment which becomes reckonable as contributory service by virtue of this Part of these rules.

17.—(1) In this rule the expression—

(*a*) " the Teachers Modification Regulations " means the National Insurance (Modification of Teachers Pensions) Regulations, 1948(**a**) ;

(*b*) " new entrant " has the meaning assigned to that expression in the Teachers Modification Regulations ;

(*c*) " existing teacher " has the meaning assigned to that expression in the Teachers Modification Regulations ; and

(*d*) " the Scheme Modification Provision " means any provision of a pension scheme administered by a Public Board which modifies the benefits provided by that scheme in relation to any insured person as follows, that is to say

(i) a person who was in his former employment under a Public Board an insured person within the meaning of the National Insurance Act, 1946(**b**) ; or

(ii) a person who had left employment under a Public Board before the 5th July, 1948, and was an insured person under the National Health Insurance Acts, 1936 to 1938(**c**), as amended by the National Health Insurance Contributory Pensions and Workmen's Compensation Act, 1941(**d**), or the Widows, Orphans and Old Age Contributory Pensions Act, 1936(**e**).

(2) In the case of a person to whom this Part of these rules applies the modification for which the Teachers Modification Regulations provide—

(*a*) shall not apply if the modification for which the Scheme Modification Provisions provides did not apply at the date when he last ceased to be in Public Board employment ;

(*b*) shall apply in the manner hereinafter prescribed by this rule if the modification for which the Scheme Modification Provision provides applied at the date when he last ceased to be in Public Board employment.

(3) Where, in accordance with the last foregoing paragraph of this rule, the Teachers Modification Regulations apply to any person, they shall apply as if any service which he becomes entitled to reckon as contributory service under rule 11 (1) of these rules, being service of which account would have been taken under the Scheme Modification Provision for the purpose of reducing any benefit to which the person might have been entitled under the Public Board pension scheme had he continued to be subject thereto, were contributory service in respect of which he was subject to the provisions

(**a**) S.I. 1948 (No. 889) I, p. 2851. (**b**) 9 & 10 Geo. 6. c. 67.
(**c**) 26 Geo. 5. & 1 Edw. 8. c. 32 to 1 & 2 Geo. 6. c. 14.
(**d**) 4 & 5 Geo. 6. c. 39. (**e**) 26 Geo. 5. & 1 Edw. 8. c. 33.

of the Teachers Modification Regulations relating to new entrants except that the provisions of those Regulations relating to existing teachers shall apply if—

(*a*) before entering upon Public Board employment that person had been subject to the Teachers Modification Regulations as an existing teacher; or

(*b*) the Scheme Modification Provision applied to him on or before 5th July, 1948, so as to modify any benefit to which he might have become entitled under the Public Board pension scheme by reference to a table and to his age at a given date:

Provided that in the case of a person to whom the foregoing sub-paragraph (*b*) applies but to whom the foregoing sub-paragraph (*a*) does not apply the Teachers Modification Regulations shall have effect as if the reference therein to that person's age at a given date were a reference to his age at the date which was relevant for the purposes of the Scheme Modification Provision.

18. Any transfer value receivable by the Minister from the appropriate superannuation fund under rule 11 of these rules shall be an amount equal to the transfer value which would have been payable under the provisions of the Regulations of 1939 if that person, at the date when he ceased to be in Public Board employment 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 been entitled to reckon as contributing service such service as is reckonable as contributory service by virtue of rules 11, 12 and 13 of these rules and had become such an employee under another local authority:

Provided that—

(i) the amount of the transfer value so receivable by the Minister shall be reduced by an amount equal to any sum which the Trustees of the appropriate Superannuation Fund may become liable to pay by way of income tax in respect of the amount so receivable;

(ii) the transfer value in respect of a person who ceased to be in Public Board employment more than twelve months before the date of the coming into operation of these rules shall be calculated by reference to his age at that date; and

(iii) nothing in this rule shall affect the operation of rule 13 of these rules.

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

Part IV.—Treatment of Public Board Employment as Approved External Service

20.—(1) The Public Board employment of a person shall be treated as approved external service for the purposes of Section 13 of the Act of 1925—

(*a*) if that person is a person to whom Part II of these rules applies and has been employed in contributory service under a scheme made under Section 21 (1) (*a*) of the Act of 1925 at any time before entering Public Board employment, in which case his employment so treated as approved external service shall include his recognised or contributory service in respect of which a transfer value is paid by the Minister to a Public Board; or

(*b*) if that person is a person to whom Part II of these rules does not apply, but who has been employed in contributory service whether under a scheme as aforesaid or otherwise at any time before entering Public Board employment;

and where the Public Board employment of a person is so treated, paragraphs (*c*), (*d*) (ii) and (*e*) of sub-section (2) of the said Section 13 shall apply to such employment as they apply to the categories of approved external service therein mentioned.

(2) Subject to the provisions of paragraph (1) of this rule Part II of the Act of 1925 with respect to the calculation of the average salary of a teacher shall have effect as if the reference therein to contributory and recognised service did not include a reference to Public Board employment which is treated as approved external service by virtue of this rule.

(3) The Public Board employment which is treated as approved external service by virtue of this rule shall not be deemed to be contributory service for the purposes of the proviso to Section 12 (2) of the Act of 1925.

Concur

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

17th October, 1951.

Given under the Official Seal of the Minister of Education this 18th day of October, 1951.

(L.S.)

Geo. Tomlinson,
Minister of Education.

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 from pensionable service under the Teachers Superannuation Acts to pensionable service under the Public Boards named in the rules, or vice-versa, by appropriate transfer value payments as between the Minister of Education and the Public Board superannuation fund. 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 (subject to the right of the person concerned not to elect to come under them) is made under the express powers of Section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948.