STATUTORY INSTRUMENTS

1961 No. 1566 (S. 96)

EDUCATION, SCOTLAND

The Superannuation (Teaching and Public Boards) (Scotland) Rules, 1961

Made - - - -	*9th August*, 1961
Laid before Parliament	*16th August*, 1961
Coming into Operation	*17th August*, 1961

In exercise of the powers conferred upon 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

Interpretation

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

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

(*b*) "appropriate superannuation fund" means, in relation to any person to whom Part II or Part III of these Rules applies, the fund maintained in connection with the Public Board pension scheme to which he is subject or was last subject as the case may be;

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

(*d*) "contributory employee" has the meaning assigned to that expression by the last mentioned Act;

(*e*) "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(c), and includes any period immediately following the termination thereof during which the person, with the consent of the body or person by whom he was employed before undertaking such service, continues in similar service;

(*f*) "pension" has the meaning assigned to that expression by the Act of 1948;

(*g*) "Public Board" means a Board, Council or other Authority designated in column (1) of the Schedule to these Rules, and "date of designation" in relation to a Public Board means the date set forth in column (2) of the said Schedule opposite to the name or description of that Board;

(*h*) "Public Board pension scheme" means, in relation to any person, the pension scheme to which that person is or was subject in respect of his Public Board employment, being a pension scheme administered by a Public Board or in which a Public Board participates;

(a) 11 & 12 Geo. 6. c. 33. (b) 1 Edw. 8 and 1 Geo. 6. c. 69. (c) 14 & 15 Geo. 6. c. 65.

(*i*) "Public Board employment" means employment in service pensionable under a Public Board pension scheme and "pensionable employee of a Public Board" and "pensionable employee" means a person so employed;

(*j*) "Regulations of 1954" means the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1954(a);

(*k*) "Regulations of 1957" means the Teachers (Superannuation) (Scotland) Regulations, 1957(b) and 1958(c);

(*l*) "teacher" has the meaning assigned to it by Regulation 16 or Regulation 32, as the case may be, of the Regulations of 1957;

(*m*) "teaching service" has the meaning assigned to the expression "first class service" by Regulation 5 of the Regulations of 1957 and includes periods which are deemed to be service under the provisions of Regulation 9 of the said Regulations (which relates to periods of experience of value to teachers) or under the provisions of Regulation 12 of the said Regulations (which relates to breaks in service) but does not include any period of teaching service which has been recorded as third class service in consequence of the return of the balance of contributions to the teacher unless it is again recorded as first class service in consequence of the repayment of the said balance by the teacher in accordance with the provisions of paragraph (4) of Regulation 50 of the Regulations of 1957.

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

(3) The Interpretation Act, 1889(d), applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

(4) References in these Rules to any enactment, regulation, scheme or other instrument shall, except where the context otherwise requires, be construed as references to the enactment, regulation, scheme or other instrument as amended by or under any other enactment, regulation, scheme or other instrument.

(5) Any references to a provision of the Regulations of 1957 shall, so far as is necessary in relation to any period before 1st October, 1956, be construed as a reference to the corresponding provision of the Scheme or of a Rule revoked by the Regulations of 1957.

PART II

TRANSFER FROM EMPLOYMENT IN TEACHING SERVICE TO PUBLIC BOARD EMPLOYMENT

Reckoning of teaching service as Public Board employment

2.—(1) Where a person, being a teacher to whom the Regulations of 1957 apply, without having become entitled to a pension under the Regulations of 1957 other than a return of contributions, has become or becomes a pensionable employee of a Public Board within twelve months after ceasing to be employed in teaching service or within such longer period as the Secretary of State may allow in any particular case and upon changing his employment as aforesaid becomes subject to a pension scheme which is approved by the Secretary of State for the purposes of these Rules, a transfer value in respect of his teaching service shall be paid by the

(a) S.I. 1954/1256 (1954 II, p. 1736). (b) S.I. 1957/356 (1957 I, p. 733).
(c) S.I. 1958/1595 (1958 I, p. 1077). (d) 52 & 53 Vict. c. 63.

Secretary of State in accordance with the provisions of Rule 6 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 Regulations of 1957 to him or his personal representatives.

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

(*a*) to a person who became a pensionable employee of a Public Board before the date of the designation of that Board unless the Secretary of State and that Board agree 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 a pensionable employee of a Public Board or within six months after the date of the designation of that Board, 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 Regulations of 1957 after he last ceased to be employed in teaching service.

Arrears of contributions in respect of war service and national service

3.—(1) Where the teaching service of a person to whom this Part of these Rules 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 or of specified national service within the meaning of the Teachers' Pensions (National Service) (Scotland) Rules, 1952(b), but the contributions in respect of the whole or any part of such war service or national service or specified national service payable by that person in accordance with the aforesaid Act or the aforesaid Rules have not been paid to the Secretary of State at the date on which the Secretary of State pays a transfer value in respect of that person under this Part of these Rules, then—

(*a*) the right to receive the sum outstanding 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 teaching service and any transfer value paid by the Secretary of State under Rule 2 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 which remain unpaid at the date on which the Secretary of State pays a transfer value in respect of that person under Rule 2 of these Rules shall be paid forthwith by the employer to the Secretary of State, or shall be deducted from any grant payable to that employer by the Secretary of State or, where that employer is an education authority, from any grants payable by the Secretary of State under any enactment in lieu of grants paid or payable to that authority in respect of expenditure incurred in carrying out their functions as an education authority.

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

Transfer to Public Board of right to additional contributions

4. Where a person to whom this Part of these Rules applies was, at the date on which he ceased to be in teaching service, in course of making to the Secretary of State, as a condition of reckoning past service, any payments or contributions additional to those required by section 103 of the Education (Scotland) Act, 1946(a), the right to receive the balance of the said payments or contributions shall be, and is hereby, transferred to the Public Board of whom that person is a pensionable employee. The said teacher shall be liable to pay the outstanding payments to the Public Board at the times at which and in the manner in which they would have been payable by him if he had remained in teaching service.

Teacher returning to teaching service from Public Board employment

5. Where a person to whom this Part of these Rules applies ceases to be employed in Public Board employment and again becomes employed in teaching service but 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 Secretary of State under this Part of these Rules shall be recorded as third class service under the Regulations of 1957.

Payment of transfer value

6. In respect of any person to whom this Part of these Rules applies, the transfer value to be paid by the Secretary of State 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 teaching service, and shall be an amount equal to the transfer value which would have been payable under the provisions of the Regulations of 1954 if that 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 been entitled to reckon his teaching 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 teaching service more than twelve months before the date of the designation of the Public Board shall be calculated by reference to his age at the last-mentioned date; and

(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 3 or Rule 4 of these Rules.

PART III

TRANSFER FROM PUBLIC BOARD EMPLOYMENT TO EMPLOYMENT IN TEACHING SERVICE

Reckoning of Public Board employment as teaching service

7.—(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 subject, becomes employed in teaching service within twelve months after ceasing to be a pensionable employee of a Public Board or within such longer period as the Secretary of State may allow in any particular case and immediately before he ceased to be in the employment of the Public Board was subject to a pension scheme which is approved

(a) 9 & 10 Geo. 6. c. 72.

by the Secretary of State for the purposes of these Rules, then, if the Secretary of State receives from the appropriate superannuation fund a transfer value calculated as provided by Rule 13 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 teaching service for the purposes of the Regulations of 1957.

(2) For the purpose of the last foregoing paragraph, the period of a person's service (if any) which is reckonable at the time of his ceasing to be employed in Public Board employment as non-contributing service shall, for the purposes of the Regulations of 1957, be deemed to be a period of teaching service equal to one half of its actual length.

(3) Notwithstanding the provisions of the last foregoing paragraph, such part of a person's service as is mentioned in that paragraph shall be deemed to be a period of teaching service equal to its whole length for the purpose of—

(*a*) determining whether he has served in teaching service for the minimum period laid down by the Regulations of 1957 as necessary in order that any pension may be paid to or in respect of him; or

(*b*) calculating his pensionable salary under the provisions of the said Regulations.

(4) 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 teaching service except for the sole purpose of determining whether he has served in teaching service for the minimum period laid down by the Regulations of 1957 as necessary in order that any pension may be paid to or in respect of him.

(5) Part-time Public Board employment of a person which is reckoned at a fraction of its actual length for the purposes of calculating a transfer value under Rule 13 of these Rules and which was reckonable by the Public Board as full-length for the purpose of calculating any qualifying period of service shall be reckoned at full length for the purpose of determining whether the person has served in teaching service for the minimum period laid down by the Regulations of 1957 as necessary in order that any pension may be paid to or in respect of him.

(6) 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 teaching service was before the date of the designation of the Public Board or before 28th May, 1948, being the date of the passing of the Act of 1948, but shall not apply—

(*a*) to a person who ceased to be in Public Board employment and became employed in teaching service before the date of the designation of the Public Board unless the Secretary of State 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 is informed that the Regulations of 1957 apply to him or within six months after the date of the designation of the Public Board whichever is the later—

(i) give notice in writing to the Secretary of State that he desires this Part of these Rules to apply to him and furnish the Secretary of State with particulars of his previous pensionable service; and

(ii) pay to the Secretary of State 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.

Reckoning of national service as teaching service

8. The period of service of any person which is to be reckoned as teaching service for the purposes of the Regulations of 1957 in accordance with Rule 7 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 teaching 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 Secretary of State 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.

Reckoning of additional periods of Public Board employment

9. 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 teaching service for the purposes of the Regulations of 1957 in accordance with Rule 7 of these Rules shall be treated as being increased by such additional period if—

(*a*) the transfer value to be received by the Secretary of State for 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 Secretary of State 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.

Return of contributions in respect of Public Board employment which is reckoned as teaching service

10. Where a person to whom this part of these Rules applies ceases to be employed in teaching service or dies, then, in computing the sum to which he or his personal representatives shall be entitled under Regulation 27, Regulation 28, Regulation 50 or Regulation 51 of the Regulations of 1957, as the case may be, 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 teaching service, and in computing the amount of the sum so included—

(*a*) as respects the period immediately before the date on which he became employed in teaching 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 the date on which he became employed in teaching service, compound interest, if any, shall be calculated in accordance with the provisions of paragraph 7 of Regulation 37 of the Regulations of 1957:

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.

Commencement of qualifying period where Public Board employee has become a teacher

11. For the purposes of sub-paragraph (*b*) of paragraph (3) of Regulation 39 of the Regulations of 1957 (which relates to the length of service which qualifies a teacher for a retiring allowance), 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 teaching service.

Application of National Insurance modifications

12.—(1) In this Rule unless the context otherwise requires the expression—

(*a*) "National Insurance modifications" has the meaning assigned to that expression in paragraph (1) of Regulation 2 of the Regulations of 1957;

(*b*) "new entrant" means a teacher of the first category as defined in sub-paragraph (*a*) of paragraph (1) of Regulation 33 of the Regulations of 1957, and includes a teacher whose employment before the second day of July, 1945, is treated as service under Regulation 8 of the said Regulations;

(*c*) "participating employment" means employment in respect of which a person was entitled to benefit under a pension scheme to which Regulations made under subsection (4) of section 69 of the National Insurance Act, 1946(**a**), or a scheme modification provision, applied, and "subject to a modification provision" means subject to a provision of such a Regulation or to a scheme modification provision modifying the benefits provided by the pension scheme; and

(*d*) "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; or

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

(**a**) 9 & 10 Geo. 6. c. 67.
(**b**) 4 & 5 Geo. 6. c. 39.
(**c**) 26 Geo. 5 & 1 Edw. 8. c. 33.

(2) In the case of a person to whom this Part of these Rules applies, other than a pensionable employee of the British Broadcasting Corporation or of the Gas Council or of an Area Gas Board, the National Insurance modifications—

(*a*) shall not apply if a scheme modification provision did not apply at the date when he last ceased to be in Public Board employment; but

(*b*) shall apply in the manner hereinafter prescribed by this Rule if a scheme modification provision applied at the date when he last ceased to be in Public Board employment.

(3) Where, in accordance with the last foregoing paragraph, National Insurance modifications apply to any person, they shall apply as if any service which he becomes entitled to reckon as teaching service under paragraph (1) of Rule 7 of these Rules, being service of which account would have been taken under a 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 teaching service in respect of which he was subject to National Insurance modifications relating to new entrants, except that the provisions of those modifications relating to teachers of the second category as defined in sub-paragraph (*b*) of paragraph (1) of Regulation 33 of the Regulations of 1957 shall apply if—

(*a*) before entering upon Public Board employment that person had been subject to the National Insurance modifications as a teacher of the second category; or

(*b*) a 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, National Insurance modifications 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.

(4) Where this Part of these Rules applies to a person who has been a pensionable employee of the Gas Council or of an Area Gas Board, National Insurance modifications—

(*a*) shall not apply if—

(i) his pensionable service for the purpose of the Public Board pension scheme commenced or is deemed to have commenced on or before 5th July, 1948, or

(ii) he had previously been in participating employment but had not been subject to any modification provision;

(*b*) shall apply as they apply to a new entrant if—

(i) he had previously been in participating employment and had been subject to a modification provision applicable to persons entering upon that employment after the 5th July, 1948; or

(ii) his pensionable service for the purpose of the Public Board pension scheme commenced or is deemed to have commenced after 5th July, 1948, and he does not fall within the category specified in sub-paragraph (*a*) (ii) or the category specified in sub-paragraph (*c*) of this paragraph; and

(*c*) shall apply as they apply to a teacher of the second category if he had previously been in participating employment and had been subject to a modification provision modifying the benefits provided by the pension scheme in relation to persons entering upon that employment on or before the 5th July, 1948, by reference to a table and their respective ages at given dates, provided that National Insurance modifications 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 appropriate Regulations made under subsection (4) of section 69 of the National Insurance Act, 1946, or of the appropriate scheme modification provision, as the case may be.

(5) Where this Part of these Rules applies to a person who has been a pensionable employee of the British Broadcasitng Corporation, National Insurance modifications shall apply as they apply to a new entrant, except that—

(*a*) if he had previously been in participating employment but had not been subject to any modification provision, and then paid contributions to the pension scheme of the British Broadcasting Corporation at the higher rate provided for in that scheme throughout his service with the Corporation, he shall not be subject to National Insurance modifications; and

(*b*) if he had previously been in teaching service and was subject to modification in accordance with the table contained in the Fourth Schedule to the Regulations of 1957, he shall continue to be subject to that modification.

Calculation of transfer values

13. Any transfer value receivable by the Secretary of State from the appropriate superannuation fund under Rule 7 of these Rules shall be an amount equal to the transfer value which would have been payable under the provisions of the Regulations of 1954 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 teaching service under Rules 7, 8 and 9 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 Secretary of State 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 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 designation of the Public Board shall be calculated by reference to his age at that date; and

(iii) nothing in this Rule shall affect the operation of Rule 9 of these Rules.

Disposal of sums received under these Rules

14. 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.

PART IV

GENERAL

Revocation

15. The Superannuation (Teaching and Public Boards) (Scotland) Rules, 1952(a), are hereby revoked.

Citation and commencement

16.—(1) These Rules may be cited as the Superannuation (Teaching and Public Boards) (Scotland) Rules, 1961.

(2) These Rules shall come into operation on 17th August, 1961.

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

St. Andrew's House,
Edinburgh, 1.
9th August, 1961.

We consent,

R. Chichester-Clark,
W. S. I. Whitelaw,
Two of the Lords Commissioners of Her Majesty's Treasury.

9th August, 1961.

SCHEDULE

PUBLIC BOARDS

Name (1)	Date of Designation (2)
The British Broadcasting Corporation	(Date of coming into operation of the Rules)
The British Council	(Date of coming into operation of the Rules)
The Electricity Council	(Date of coming into operation of the Rules)
An Electricity Board in England and Wales.	(Date of coming into operation of the Rules)
The South of Scotland Electricity Board.	(Date of coming into operation of the Rules)
The North of Scotland Hydro-Electric Board.	(15th December, 1952)
The Forestry Commission	(Date of coming into operation of the Rules)
The Gas Council and any Area Gas Board.	(Date of coming into operation of the Rules)
The National Coal Board	(15th December, 1952)
The Nature Conservancy	(Date of coming into operation of the Rules)
The Port of London Authority ...	(Date of coming into operation of the Rules)
The Scottish Land Court	(Date of coming into operation of the Rules)
The United Kingdom Atomic Energy Authority.	(Date of coming into operation of the Rules)

(a) S.I. 1952/2149 (1952 I, p. 919).

EXPLANATORY NOTE

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

These Rules revoke the Superannuation (Teaching and Public Boards) (Scotland) Rules, 1952, but they repeat the provisions with amendments and extend the Rules. They bring within the scope of the Rules the Gas Council, the Area Gas Boards, the South of Scotland Electricity Board, the Port of London Authority, the United Kingdom Atomic Energy Authority, the Nature Conservancy, the Scottish Land Court, the Forestry Commission, the British Council and the British Broadcasting Corporation. The purpose of the 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 public boards designated in the Schedule to these Rules, or vice versa, by appropriate transfer value payments as between the Secretary of State and the public board's 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 is made under the express powers given by, and subject to the conditions prescribed in, section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948.