1955 No. 1542

The Superannuation (Transfers between the Civil Service and Local Government) Amendment Rules, 1955

Made - - - -	*4th October*, 1955
Laid before Parliament	*10th October*, 1955
Coming into Operation	*15th October*, 1955

The Lords Commissioners of Her Majesty's Treasury, the Minister of Housing and Local Government and the Secretary of State, in exercise of Their powers under sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), and of all other powers enabling Them in that behalf hereby jointly make the following rules:—

1. These rules may be cited as the Superannuation (Transfers between the Civil Service and Local Government) Amendment Rules, 1955, and shall come into operation on the fifteenth day of October, 1955.

2.—(1) These rules shall be construed as one with the Superannuation (Transfers between the Civil Service and Local Government) Rules, 1950(b), and those rules and these rules may be cited together as the Superannuation (Transfers between the Civil Service and Local Government) Rules, 1950 and 1955.

(2) In these rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

"the principal rules" means the Superannuation (Transfers between the Civil Service and Local Government) Rules, 1950; and

"rule" means rule contained in the principal rules.

(3) References in these rules and in the principal rules as amended by these rules to the provisions of any enactment, rules or regulations shall be construed, unless the context otherwise requires, as references to those provisions as amended, applied or re-enacted by any subsequent enactment, rules or regulations.

(4) For the purposes of the principal rules as amended by these rules a justices' clerk shall be deemed to be in the employment of the magistrates' courts committee by whom he is or, under the provisions of the Justices of the Peace Act, 1949(c), is deemed to have been appointed and references to "employment" shall, in relation to any such person, be construed accordingly.

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

(a) 11 & 12 Geo. 6. c. 33.
(b) S.I. 1950/145 (1950 II, p. 277).
(c) 12, 13 & 14 Geo. 6. c. 101.
(d) 52 & 53 Vict. c. 63.

3.—(1) In rule 2, in paragraph (1) thereof—

(*a*) there shall be inserted the following definitions:—

"'the Act of 1953' means the Local Government Superannuation Act, 1953(**a**);

'added years' means—

(*a*) in relation to a person in local government service, any additional years of service reckonable by him under regulation 12 of the benefits regulations, any corresponding provision of a local Act scheme, or that regulation or any such provision as aforesaid as applied by regulations made under the Third or Fourth Schedule to the Act of 1953, and includes any additional years of service, which, having been granted under any such provision or under any similar provision contained in any other enactment or scheme, have subsequently become and are reckonable under or by virtue of rules made under section 2 of the Act or any other enactment;

(*b*) in relation to a civil servant, any additional years of service of the nature of additional years of service referred to in paragraph (*a*) of this definition which have been granted in, or have otherwise become reckonable in, his employment as a civil servant;

'the benefits regulations' means in relation to England and Wales the Local Government Superannuation (Benefits) Regulations, 1954(**b**), and in relation to Scotland the Local Government Superannuation (Benefits) (Scotland) Regulations, 1954(**c**);

'the transfer value regulations' means in relation to England and Wales the Local Government Superannuation (Transfer Value) Regulations, 1954(**d**), and in relation to Scotland the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1954(**e**);

'voluntary contributions' means—

(*a*) in relation to a person who has become employed as a civil servant after ceasing to be employed in local government service, payments made voluntarily by him for the purpose of securing benefits for his widow, children or other dependants and payments (other than completed payments, that is to say, payments made in respect of a liability which has been wholly discharged) of any of the following categories—

(i) additional contributory payments of the kind referred to in subsections (3) and (4) of section 2 of the Act of 1953;

(ii) any similar payments made under a local Act scheme as a condition of reckoning any period of employment as service or as a period of contribution for the purposes of the scheme or, where the local Act scheme provides for the reckoning of non-contributing service, as contributing service for the purposes of the scheme;

(iii) any payments made for the purpose of increasing the length at which any period of service or of contribution would be reckonable for the purpose of calculating a benefit under a local Act scheme;

(iv) any payments made in respect of added years;

(**a**) 1 & 2 Eliz 2. c. 25.
(**b**) S.I. 1954/1048 (1954 II, p. 1595).
(**c**) S.I. 1954/1059 (1954 II, p. 1632).
(**d**) S.I. 1954/1212 (1954 II, p. 1723).
(**e**) S.I. 1954/1256 (1954 II, p. 1736).

(*b*) in relation to a person who has become employed in local government service after ceasing to be employed as a civil servant, any payments, similar in character to any such payments as aforesaid, for the continuation of which, during the period of his employment as a civil servant, provision was made by or under any enactment ; " ;

(*b*) for the definition of " national service " there shall be substituted the following definition :—

" ' national service ' in relation to any person means service of a description specified in the First Schedule to the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951(**a**), and includes any period immediately following the termination thereof during which (with the consent in the case of a justices' clerk of the authority by whom he was appointed, and in the case of any other person, of the Head of the Department in which, or of the local authority by whom, he was employed before undertaking that service) the person continues in similar service ; ".

(2) Paragraph (2) of rule 2 shall cease to have effect but without prejudice to the previous operation of that paragraph or to anything previously done or suffered thereunder.

4. In rule 3—

(*a*) in paragraph (1) thereof—

(i) in sub-paragraph (*c*) for the words " his previous pensionable employment and war service or national service (if any) " there shall be substituted the words " any war service or national service in which he has been engaged since he left his previous employment " ;

(ii) in sub-paragraph (*d*) for the words " not being contributions made voluntarily for the purpose of securing benefits for his widow, children or other dependants " there shall be substituted the words " other than voluntary contributions " ;

(*b*) in paragraph (2) thereof for the words " Any reference in sub-paragraph (*a*) (1) of paragraph (1) of this rule " there shall be substituted the words " Any reference in sub-paragraph (*a*) of paragraph (1) of this rule ".

5. In rule 4—

(*a*) in paragraph (1) thereof—

(i) in paragraph (*a*) of the proviso the words " by virtue of a scheme modifying either the Act of 1937 or the Scottish Act of 1937 " shall be omitted and for the words " then only that fraction of that period of service shall be reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant " there shall be substituted the words " then account shall be taken of that period of service—

(*i*) at its actual length only for the purpose of determining whether the officer has served for the minimum period prescribed by the Superannuation Acts as necessary for any pension to be paid to or in respect of him ; and

(*ii*) at the aforesaid fraction of its actual length for the purpose of calculating the amount of any pension payable to him under the Superannuation Acts " ;

(a) 14 & 15 Geo. 6. c. 65.

(ii) for paragraph (*b*) of the proviso there shall be substituted the following paragraph:—

"(*b*) in taking account of contributing service or any period of service or period of contribution for the purpose of a local Act scheme regard shall be had to the provisions of rule 8.";

(*b*) after paragraph (2) there shall be added the following paragraph:—

"(2A) Where part of the officer's service, not being a part to which any of the preceding provisions of this rule relates, is reckonable at the time of his ceasing to be employed in local government service for the purpose of determining whether he is eligible to receive a pension but not for calculating the amount thereof, account shall be taken of that part for the purpose of determining whether the officer has served for the minimum period prescribed by the Superannuation Acts as necessary for any pension to be paid to or in respect of him and for no other purpose.";

(*c*) in paragraph (4), after the words "the Act of 1937" there shall be inserted the words "or section 15 of the Scottish Act of 1937".

6. In rule 5—

(*a*) for the words "the Regulations for the time being in force by virtue of section 29 of the Act of 1937 or section 24 of the Scottish Act of 1937, as the case may be, had the officer at the date when he became employed as a civil servant ceased to be a contributory employee or local Act contributor under one local authority and become such an employee or contributor under another local authority" there shall be substituted the words "the transfer value regulations if on ceasing to be a contributory employee or local Act contributor the officer had become such an employee or contributor under another local authority" and after the words "transferred by way of transfer value" there shall be inserted the words "and furnish the employing Department and the officer with the like particulars relating to the officer's previous pensionable service as would have been given to the officer if instead of becoming a civil servant he had become a contributory employee";

(*b*) for paragraph (*b*) of the proviso there shall be substituted the following paragraph:—

"(*b*) the transfer value payable under this rule shall be calculated as if the words "not being such service as is mentioned in proviso (*a*) to that subsection" had been omitted from paragraph (*a*) of the definition of "service" in paragraph 1 of the first schedule to the Local Government Superannuation (Transfer Value) Regulations, 1954, or, as the case may be, as if the words "not being such service as is mentioned in proviso (*a*) to that section" had been omitted from paragraph (*a*) of the definition of "service" in paragraph 1 of the first schedule to the Local Government Superannuation (Transfer Value) (Scotland) Regulations, 1954, and the transfer value payable in respect of a person who had been an established officer or servant within the meaning of the Asylums Officers' Superannuation Act, 1909(**a**) (hereinafter called "the Act of 1909") shall be calculated as if paragraph (*c*) had been omitted from the definition of "service" in paragraph 1 of the first schedule to the transfer value regulations."

(**a**) 9 Edw. 7. c. 48.

7. For rule 7 there shall be substituted the following rule:—

"7.—(1) Where an officer becomes a civil servant after ceasing to be employed in local government service and these rules have become applicable in relation to him the employing authority may, within three months after the date on which they are informed by the Head of the Department in which he is employed as a civil servant of his notification that he desires these rules to apply to him, exercise in relation to him any discretion which, with a view to increasing the pension payable to him, it would have been open to them to exercise at the time when he left their employment if he had then retired and had been entitled to a retirement pension under regulation 5 of the benefits regulations or (if that regulation was not applicable to him) to any corresponding benefit provided under the superannuation provisions which were applicable to him in his former employment.

(2) A decision made in the exercise of any discretion under the last preceding paragraph shall be subject to the limitations and restrictions (if any) and to the right of appeal (if any) to which it would have been subject if the discretion had been exercised on the person's retirement in the circumstances aforesaid.

(3) Where a discretion has been exercised under paragraph (1) of this rule the service reckonable, immediately before he ceased to be employed in local government service, by the officer in whose favour the discretion has been exercised shall be deemed to have been correspondingly increased and the transfer value payable in respect of that person shall be calculated accordingly.

(4) Any increase in service, if attributable to a decision under this rule to increase the pension payable to the person otherwise than by any notional increase or extension of the service reckonable for the purpose of calculating that pension or by treating any specified period of non-contributing service as contributing service, or, under a local Act scheme, by similarly converting service of one category to service of another category, shall be ascertained by converting a higher rate of pension into years of contributing service or service for the purpose of the relevant local Act scheme in the manner in which fractions of remuneration are converted into years of contributing service under subsection (4) of section 2 of the Act of 1953.

(5) Where the amount of any transfer value payable under rule 5 of these rules is increased in consequence of the exercise by the employing authority of any power conferred upon them by paragraph (1) of this rule, the employing authority shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable."

8. For rule 8 there shall be substituted the following rule:—

"8.—(1) Where the officer was, at the time when he ceased to be employed in local government service, in the course of making payments (other than those to which paragraph (2) of this rule applies) by way of—

(*a*) instalments in discharge of a fixed sum; or

(*b*) contributions of a fraction or percentage of emoluments additional to the percentage payable in respect of current service,

as a condition of being entitled to reckon the service in relation to which those payments were being made as a period of contributing service for the purpose of the Act of 1937 or the Scottish Act of 1937 or as service

or a period of contribution for the purposes of a local Act scheme, or as a condition of increasing the length at which the said service would be reckonable for the purpose of calculating a benefit under the Act of 1937 or the Scottish Act of 1937 or a local Act scheme, he shall be entitled, when giving notice to the Department in pursuance of sub-paragraph (*c*) of paragraph (1) of rule 3 of these rules, to elect to continue those payments in the manner provided by this paragraph and—

(i) if he does so elect and repays forthwith to the Treasury a sum equal to any sum paid to him by way of return of such payments on or after ceasing to be employed in his local government service—

(*i*) he shall be liable to pay the outstanding payments to the Treasury in the manner in which they would have been payable by him if he had remained in his local government service; and

(*ii*) the service in respect of which they are made shall be reckonable for the purposes of the Superannuation Acts in the manner in which it would by virtue of these rules have been reckonable if, immediately before he left his local government service, he had been under no further liability in respect of such payments;

(ii) if he does not so elect, or if he fails to pay any sum payable to the Treasury under sub-paragraph (i) of this paragraph, then, for the purpose of the Superannuation Acts, account shall be taken of the service in respect of which the payments were being made only to the extent, if any, to which, by virtue of these rules, account would have been taken of that service if he had not been in the course of making such payments as aforesaid in respect thereof at the time when he left his local government service.

(2) Where the officer was, at the time when he left his local government service, in the course of making payments in respect of added years, he shall be entitled, when giving notice to the Department in pursuance of sub-paragraph (*c*) of paragraph (1) of rule 3 of these rules, to elect to continue to make the like payments to the Treasury in respect of the said added years as he would have been liable to make to the fund authority and, if he does so elect and repays forthwith to the Treasury a sum equal to any sum paid to him by way of return of any such payments on or after ceasing to be employed in his local government service, he shall be liable to make payments to the Treasury in respect of the said added years in the manner in which and at the times at which he would have been liable to make them under the superannuation provisions which were applicable to him in his local government service and, if he makes those payments, shall be entitled to have the added years reckoned for the purposes of the Superannuation Acts as service in the capacity of a civil servant:

Provided that—

(*a*) the said added years shall not be reckonable for the purposes of the Superannuation Acts if the officer left his local government service in such circumstances that in consequence of a resolution of the authority by whose consent the added years first became reckonable he ceased to be entitled to reckon the added years; and

(*b*) no account shall be taken of added years for the purpose of determining whether the officer has served for the minimum period prescribed by the Superannuation Acts as necessary for any pension to be paid to or in respect of him."

9. In rule 9 after the words " by way of a return of contributions " there shall be inserted the words " other than voluntary contributions ".

10. In rule 16—

(*a*) in sub-paragraph (*d*) of paragraph (1) for the words " notifies the local authority by whom he is then employed " there shall be substituted the words " notifies the local authority maintaining the superannuation fund to which he is then a contributor ", for the words " the local authority by whom he was last employed " there shall be substituted the words " the local authority maintaining the superannuation fund to which he was last a contributor " and for the words " his previous pensionable employment and national service (if any) " there shall be substituted the words " any national service in which he has been engaged since he left his previous employment " ;

(*b*) after paragraph (1) there shall be inserted the following paragraph:—

" (1A) In determining whether for the purposes of sub-paragraph (*a*) of paragraph (1) of this rule—

(*a*) a person has become employed in local government service within twelve months after ceasing to be employed as a civil servant, or within six months after the termination of his national service ; or

(*b*) a person has become engaged in national service immediately after leaving his employment as a civil servant,

the whole or part of any period which, after leaving his employment as a civil servant, the person has spent on a course of study or training approved by the Treasury shall, if the Treasury so direct, be disregarded:

Provided that this paragraph shall not apply to any person unless the authority or body employing him in his new employment are satisfied that by reason of his having undertaken the said course of study or training he is better fitted for the duties of that employment."

11.—(1) Rule 17 shall be renumbered paragraph (1) of rule 17 and there shall be inserted at the beginning of that paragraph the words " Subject as hereinafter provided ".

(2) In rule 17 there shall be added the following paragraphs:—

" (2) Where any part of the officer's service which for the purpose of the Superannuation Acts is reckonable as service in the capacity of a civil servant is attributable to service which before he became a civil servant was non-contributing service for local government superannuation purposes or for the purposes of regulations made under section 67 of the National Health Service Act, 1946(**a**), as amended(**b**), or section 66 of the National Health Service (Scotland) Act, 1947(**c**), as amended(**b**), such service shall be reckonable in the officer's local government service in the manner and to the extent to which it would be reckonable if in his employment as a civil servant he had been a contributory employee.

(3) Where account is taken of any period of the officer's service for the purpose of determining whether he has served for the minimum period prescribed by the Superannuation Acts as necessary for any pension to be paid to or in respect of him that period shall, to the same extent, be reckonable in his local government service for the purpose of determining whether he has served for the minimum period prescribed by or under the enactment or scheme applicable to him in his local government service for any pension to be paid to or in respect of him ".

(**a**) 9 & 10 Geo. 6. c. 81. (**b**) 12, 13 & 14 Geo. 6. c. 93.
(**c**) 10 & 11 Geo. 6. c. 27.

12. In rule 19—

(*a*) for the words "the regulations for the time being in force by virtue of section 29 of the Act of 1937 or section 24 of the Scottish Act of 1937, as the case may be" there shall be substituted the words "the transfer value regulations";

(*b*) there shall be added the following proviso:—

"Provided also that the age which shall be taken into account for the purpose of calculating the transfer value payable under this rule in respect of a person to whom paragraph (1A) of rule 16 has become applicable shall be his age on the date when he becomes employed in local government service".

13. For rule 20 there shall be substituted the following rule:—

"20.—(1) Where the officer—

(*a*) ceases to be in local government service in the circumstances mentioned in subsection (1) of section 10 of the Act of 1937, or of the Scottish Act of 1937; or

(*b*) dies in the circumstances mentioned in subsection (3) of that section; or

(*c*) ceases (by reason of permanent ill-health or infirmity of mind or body) to be in local government service, or dies, in circumstances in which there is payable to or in respect of him a benefit which falls to be calculated by reference to the amount of his contributions (with or without interest),

he shall be deemed to have made to the appropriate superannuation fund on becoming a contributor to such fund, contributions in respect of the period of his employment as a civil servant of an aggregate amount equal to three eightieths of the annual salary and emoluments of his office multiplied by the number of completed years of his service as a civil servant.

(2) In this rule 'the annual salary and emoluments of his office' means the average annual amount of the pensionable salary and emoluments of his office during the three years ending with the last day of his service as a civil servant, or, where his service during that period is less than three years, the average annual amount of his pensionable salary and emoluments during the actual period of his said service."

14. In rule 21—

(*a*) in paragraph (*a*) thereof, after the words "the National Insurance Act, 1946", there shall be inserted the words "and the provisions of any other regulations or any scheme replacing wholly or in part the provisions of regulations made under the said subsection (4)";

(*b*) in paragraph (*b*) thereof, after the words "local Act scheme" where they first occur there shall be inserted the words "or as non-contributing service" and for the words "contributing service or a period of service for the purposes of a local Act scheme, as the case may be," there shall be substituted the word "service".

15. Rule 22 shall be omitted.

16. For rule 24 there shall be substituted the following rule:—

"24. Where under rule 8 of these rules or any similar rule contained in other rules made under sections 2 and 15 of the Act the officer has elected to make payments to the Treasury but has not during his employment as a civil servant completed making such payments then, if he repays

forthwith to the authority maintaining the superannuation fund to which he is a contributor in his local government service a sum equal to any sum paid to him by way of return of such payments on or after ceasing to be employed as a civil servant—

(*a*) he shall be entitled in continuation of payments made in respect of added years, to make payments to the aforesaid authority in the manner in which those payments would have been payable to the Treasury if he had remained in his employment as a civil servant and shall enjoy rights and be subject to liabilities as if those years were added years in respect of which payments are being made in his local government service under regulation 12 of the benefits regulations or, if in his local government service he is subject to a local Act scheme, under such provisions corresponding to the said regulation 12 or to regulation 5 of the Local Government Superannuation (Reckoning of Service on Transfer) Regulations, 1954(**a**), or to regulation 5 of the Local Government Superannuation (Reckoning of Service on Transfer) (Scotland) Regulations, 1954(**b**), as are contained in that scheme;

(*b*) he shall be entitled, in continuation of other payments, to make payments and, in respect of the service in respect of which the payments were being made, shall enjoy rights and be subject to liabilities, as if in his previous employment he had been instead of a civil servant a local Act contributor."

17. The provisions of the schedule to the principal rules shall cease to have effect but without prejudice to the reckoning of any service to which the schedule has applied before the coming into operation of these rules.

18. Nothing in the principal rules shall be construed as applying—

(*a*) part II of the principal rules as amended by these rules to a person who ceased to be employed in local government service and became a civil servant before the coming into operation of these rules; or

(*b*) part IV of the principal rules as amended by these rules to a person who ceased to be employed as a civil servant and became employed in local government service before the coming into operation of these rules,

and in relation to any such person part II of the principal rules as originally made or, as the case may be, part IV of the principal rules as originally made shall continue to apply as if these rules had not been made.

Dated this twenty-eighth day of September, nineteen hundred and fifty-five.

Edward Heath,
R. H. M. Thompson,
Two of the Lords Commissioners of Her Majesty's Treasury.

Given under the official seal of the Minister of Housing and Local Government this twenty-ninth day of September, nineteen hundred and fifty-five.

(L.S.)

Duncan Sandys,
Minister of Housing and Local Government.

(a) S.I. 1954/1211 (1954 II, p. 1676). (b) S.I. 1954/1241 (1954 II, p. 1680).

Given under the seal of the Secretary of State for Scotland this fourth day of October, nineteen hundred and fifty-five.

(L.S.) *James Stuart,*
Secretary of State for Scotland.

EXPLANATORY NOTE

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

These Rules amend the Superannuation (Transfers between the Civil Service and Local Government) Rules, 1950, which provide for interchange of superannuation rights between pensionable civil service employment and pensionable local government employment. The amendments are, in the main, consequential on changes in local government superannuation law. They include, in the case of persons transferring from local government service to the civil service amendments with respect to the reckoning of previous service (including qualifying service, i.e. service reckoning for eligibility for, but not in the calculation of, superannuation benefits); and provide for the continuation, at the election of the employee, of payments in respect of "added years" (i.e. additional years of service granted in local government service to certain persons with special qualifications gained outside local government) and additional contributory payments (i.e. payments made voluntarily with a view to increasing, or adding to the value of, service reckonable in the calculation of benefits). Rule 8 re-states in somewhat wider terms the existing provision with respect to the exercise by a local authority of certain discretionary powers.

In the case of persons transferring from the civil service to local government service the Rules enable the Treasury to direct that in calculating the time limit allowed under the principal Rules for movement between employments, the whole or part of the time spent on an approved course of study or training shall be disregarded. This provision applies only where the new employer is satisfied that by reason of the employee's having undertaken the course of study or training the employee has become better fitted for the duties of his new employment. Provision is also made for treating former local government non-contributing service (or non-contributing service formerly reckonable under regulations made under section 67 of the National Health Service Act, 1946, or section 66 of the National Health Service (Scotland) Act, 1947) as if, in his civil service employment, the employee had been a contributory employee under the Local Government Superannuation Act, 1937.

For certain purposes relating to return of contributions a person is deemed, under rule 20 of the principal Rules, to have made contributions in respect of his employment as a civil servant. This provision is now extended to enable the "deemed" contributions to be taken into account in calculating a benefit of the kind which is calculated by reference to the amount of the employee's contributions.

There are other minor and consequential amendments.