

1961 No. 316

## PENSIONS

## The Superannuation (English Local Government and Jersey) Interchange Rules, 1961

Made - - - -	23rd February, 1961
Laid before Parliament	28th February, 1961
Coming into Operation	1st March, 1961

The Minister of Housing and Local Government, in exercise of his powers under sections 2 and 15 of the Superannuation (Miscellaneous Provisions) Act, 1948(a), and of all other powers enabling him in that behalf, hereby makes the following rules:—

## PART I

## GENERAL

*Citation and commencement*

1. These rules may be cited as the Superannuation (English Local Government and Jersey) Interchange Rules, 1961, and shall come into operation on the 1st day of March, 1961.

*Interpretation*

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

“the Act” means the Superannuation (Miscellaneous Provisions) Act, 1948;

“the Act of 1909” means the Asylums Officers’ Superannuation Act, 1909(b);

“the Act of 1937” means the Local Government Superannuation Act, 1937(c);

“the Act of 1953” means the Local Government Superannuation Act, 1953(d);

“the Acts of 1937 to 1953” means the Local Government Superannuation Acts, 1937 to 1953;

“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 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;

(a) 11 & 12 Geo. 6. c. 33.

(c) 1 Edw. 8 & 1 Geo. 6. c. 68.

(b) 9 Edw. 7. c. 48.

(d) 1 & 2 Eliz. 2. c. 25.

(b) in relation to a pensionable employee, 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 ;

“ the benefits regulations ” means the Local Government Superannuation (Benefits) Regulations, 1954(a) ;

“ contributory employee ” has the same meaning as in the Act of 1937 ;

“ employing authority ” in relation to any pensionable employee means the Board or Committee of the States of Jersey by which he is employed ;

“ local Act contributor ” has the same meaning as in the Act of 1937 ;

“ local government service ” means service in employment by virtue of which the person employed is or is deemed to be a contributory employee or local Act contributor ;

“ the Minister ” means the Minister of Housing and Local Government ;

“ 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(b), 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 authority or person by whom he was employed before undertaking that service) the person continues in similar service ;

“ pensionable employee ” means a person employed in pensionable employment in the civil service, police force, fire service or prison service of the States of Jersey ;

“ the relevant Jersey Rules ” in relation to a pensionable employee means the rules governing the superannuation scheme applicable to him in his employment ;

“ the transfer value regulations ” means the Local Government Superannuation (Transfer Value) Regulations, 1954(c) ;

“ voluntary contributions ” means—

(a) in relation to a person who has become employed as a pensionable employee 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

(a) S.I. 1954/1048 (1954 II, p. 1595).

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

(c) S.I. 1954/1212 (1954 II, p. 1723).

reckonable for the purpose of calculating a benefit under a local Act scheme ;

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

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

(2) References in 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.

(3) For the purposes of 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(a), is deemed to have been, appointed and references to "employment" shall in relation to any such person be construed accordingly.

(4) The Superannuation (Local Government and Overseas Employment) Interchange Rules, 1958(b), shall not apply in relation to any change of employment to which Part II of these rules applies.

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

## PART II

### TRANSFER FROM LOCAL GOVERNMENT SERVICE TO PENSIONABLE EMPLOYMENT IN THE ISLAND OF JERSEY

#### *Transfer values payable to Employing Authority*

3.—(1) Subject as hereinafter provided, where a person either—

(a) becomes, or before the date of the coming into operation of these rules became, a pensionable employee within twelve months after ceasing to be employed in local government service, or

(b) having become engaged in national service immediately after leaving employment in local government service, becomes, or before the date of the coming into operation of these rules became, a pensionable employee within six months after the termination of such national service—

then, if he notifies in writing the employing authority within three months after entering their employment or within six months after the date of the coming into operation of the rules, whichever period last expires, that he desires these rules to apply to him and, if he ceased to hold his former employment before the date of the coming into operation of these rules, the authority maintaining the superannuation fund to which he was a contributor consent, the like transfer value shall be payable to the employing authority out of the fund to which the person was a contributor by the authority maintaining that fund as would have been payable under the transfer value regulations had the person become a contributory employee, less an amount equal to any sum which the authority maintaining the fund may become liable to pay by way of income tax in respect of the amount

(a) 12, 13 & 14 Geo. 6. c. 101.

(b) S.I. 1958/1416 (1958 II, p. 1845).

(c) 52 & 53 Vict. c. 63.

transferred by way of transfer value, and the like particulars of the person's previous pensionable service shall be furnished to the employing authority and the person as would have been given to the person if instead of becoming a pensionable employee he had become a contributory employee :

Provided that—

- (i) this rule shall not apply to any person unless within three months after becoming a pensionable employee or within six months after the date of the coming into operation of these rules, whichever period last expires, he furnishes the employing authority with particulars of any national service in which he has been engaged since he left his previous employment ;
- (ii) this rule shall not apply to any person unless within such period of three months or six months as aforesaid, or within such longer period as the employing authority may in any particular case allow, he pays to the employing authority an amount equal to any sum paid to him by way of a return of contributions, other than voluntary contributions ;
- (iii) this rule shall not apply to any person who became entitled on leaving his former employment to any benefit under the Acts of 1937 to 1953 or the local Act scheme to which he was subject, other than a return of contributions ;
- (iv) the reference in this rule to a period of twelve months from the date on which a person ceased to be employed shall be construed in relation to a person to whom section 6 of the Act has become applicable as a reference to a period of five years from that date or such longer period as the Minister may in any particular case allow ;
- (v) the transfer value payable in respect of a person who ceased to hold his former 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 ;
- (vi) the transfer value payable in respect of a person who had been an established officer or servant within the meaning of 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 ;
- (vii) this rule shall not apply to any person all of whose rights in relation to his previous local government service have been forfeited by a direction under subsection (3) of section 17 of the Act of 1953 or under the corresponding provision of a local Act scheme ; and where some only of those rights have been forfeited, the transfer value payable shall be calculated by reference only to the service the rights in relation to which have not been forfeited.

(2) Where a transfer value is payable in respect of a person who before becoming employed in local government service had been subject to the Act of 1909 and the body by whom he was last employed while subject to the Act of 1909 would, if he had become entitled to a superannuation allowance on ceasing to be employed in local government service, have been liable to contribute to that allowance, that body, or if that body has been dissolved, or has ceased to exercise functions as such, the appropriate authority in relation to that body, shall pay to the authority maintaining the fund out of which the transfer value is payable a sum equal to the transfer value which that body or the appropriate authority aforesaid would have been liable to pay to the Minister of Health under paragraph (4) of regulation

56 of the National Health Service (Superannuation) Regulations, 1950(a), if that regulation had become applicable to the person on the day when he became a pensionable employee; and where that body would have had in respect of any such contribution to a superannuation allowance as aforesaid a right of contribution from any other body, that other body or, if that other body has been dissolved or has ceased to exercise functions as such, the appropriate authority in relation to that other body, shall pay to the authority maintaining the superannuation fund aforesaid a sum equal to the transfer value which that other body, or the appropriate authority in relation to that other body, would have been liable to pay to the Minister of Health under paragraph (5) of the said regulation 56 if that regulation had become applicable to the person when he became a pensionable employee.

In this paragraph "appropriate authority" in relation to a body has the same meaning as in paragraph (15) of the said regulation 56.

*Exercise by local authority of discretionary powers to increase benefits*

4.—(1) Where a person becomes or became a pensionable employee after having ceased to be employed in local government service and these rules have become applicable to him, the authority or body by whom he was employed may, within three months after the date on which they are informed by the employing authority of his notification that he desires these rules to apply to him, exercise any discretion which, with a view to increasing the benefits 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 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 left his former employment by the person 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 benefits payable to the person otherwise than by any notional increase or extension of the service reckonable for the purpose of calculating those benefits, 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 benefit into years of contributing service or service for the purposes 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 the last preceding rule is increased in consequence of the exercise by an authority or body of any power conferred upon them by paragraph (1) of this rule, that authority or body shall repay the amount of the said increase to the superannuation fund out of which the transfer value is payable.

## PART III

TRANSFER FROM PENSIONABLE EMPLOYMENT IN THE  
ISLAND OF JERSEY TO LOCAL GOVERNMENT SERVICE*Reckoning of previous service*

5. Subject as hereinafter provided, where a person becomes, or before the date of the coming into operation of these rules became, employed in local government service within a period of twelve months after ceasing to be a pensionable employee and without having become entitled to or been granted any benefit other than the return of his contributions, then, if the authority maintaining the superannuation fund to which he becomes or first became a contributor receive from the employing authority a transfer value of an amount equal to the transfer value which would have been payable under the transfer value regulations if the person, instead of having ceased to be a pensionable employee, had ceased to be a contributory employee, the period of his service which for the purposes of the relevant Jersey Rules was reckonable as service in the capacity of a pensionable employee shall be reckoned as contributing service for the purposes of the Act of 1937, or as service or as a period of contribution for the purposes of the local Act scheme, as the case may be; and any period of service of which account would have been taken for the purpose of determining whether he has served for the minimum period prescribed by the relevant Jersey Rules as necessary for any pension to be paid to or in respect of him shall, to the same extent, be reckonable for the purpose of determining whether any benefit is payable to or in respect of him as a contributory employee or local Act contributor:

Provided that—

- (a) this rule shall not apply to any person unless within three months after entering his new employment or within six months after the date of the coming into operation of these rules, whichever period last expires, he notifies in writing the authority maintaining the superannuation fund to which he is or, as the case may be, first became a contributor that he desires these rules to apply to him;
- (b) in relation to any person who, before becoming employed in local government service, was employed in the fire service, police force or prison service of the States of Jersey, the period of his service which for the purposes of the relevant Jersey Rules was reckonable as service in the capacity of a pensionable employee shall, if the transfer value payable as aforesaid is correspondingly increased, be increased by one-third;
- (c) if any part of the service which he would become entitled to reckon as contributing service by virtue of the preceding provisions of this rule is attributable to service which, before he became a pensionable employee, was non-contributing service under the Act of 1937 or under a local Act scheme, that service shall be reckonable in his new employment as non-contributing service unless payments with a view to that service being reckoned as contributing service or as service or as a period of contribution under a local Act scheme had been completed while he was a pensionable employee.

*Continuation of payments made with a view to adding to, or enhancing the value of, previous service*

6.—(1) Where any person to whom rule 5 of these rules has become applicable was, at the time when he ceased to be employed as a pensionable

employee, 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,

as a condition of being entitled to reckon the service in relation to which those payments were being made as a period of reckonable service for the purposes of the relevant Jersey Rules, or as a condition of increasing the length at which the said service would be reckonable for the purpose of calculating a benefit under those Rules, he shall be entitled, if he repays forthwith to the authority maintaining the superannuation fund to which he is a contributor in his new employment 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 pensionable employee, 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 pensionable employee, a local Act contributor.

(2) Where any person to whom rule 5 of these rules has become applicable was in the course of making payments in respect of added years he shall be entitled, if he repays forthwith to the authority maintaining the superannuation fund to which he is a contributor in his new employment a sum equal to any sum paid to him by way of return of such payments as aforesaid on or after ceasing to be employed as a pensionable employee, to pay the outstanding payments in the manner in which they would have been payable if he had remained in his employment as a pensionable employee and, in respect of the added years in respect of which those payments are made, 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 new employment under regulation 12 of the benefits regulations or, if in his new employment 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), as are contained in that scheme.

#### PART IV

##### MISCELLANEOUS PROVISIONS

*Contributions not returnable to a person to whom rule 3 has become applicable*

7. Notwithstanding anything in the Act of 1937 or any local Act scheme no payment shall be made thereunder by way of a return of contributions, other than voluntary contributions, to any person to whom rule 3 of these rules has become applicable.

*Computation of contributions of a person to whom rule 5 has become applicable*

8.—(1) Where a person to whom rule 5 of these rules has become applicable—

(a) ceases to be in local government service in the circumstances mentioned in subsection (1) of section 10 of the 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 pensionable employee 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 pensionable employee:

Provided that in the case of a sum payable on the death of any person this paragraph shall apply only if the last pensionable employment of that person before he became employed in local government service was in the Jersey civil service.

(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 pensionable employee, 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.

*Rights of former insured persons to whom rule 5 has become applicable*

9. Where any person to whom rule 5 of these rules has become applicable was in his employment as a pensionable employee an insured person within the meaning of the Insular Insurance (Jersey) Law, 1950(a), then—

(a) if he had been excepted from the operation of any provision (hereinafter called "the modification provision") modifying his benefits under the relevant Jersey Rules, the provisions of any regulations made by the Minister under subsection (4) of section 69 of the National Insurance Act, 1946(b), and the provisions of any other regulations or of any scheme replacing wholly or in part the provisions of the regulations made under the said subsection (4), shall not apply to him;

(b) if he had not been so excepted the provisions of any such regulations or scheme as aforesaid applicable to him in his new employment shall apply to him as if any service which he becomes entitled to reckon under rule 5 of these rules, being service of which account would have been taken under the modification provision for the purpose of reducing any benefit to which the person might have become entitled under the relevant Jersey Rules had he continued to be subject thereto, were service rendered on or after the fifth day of July, 1948.

*Application of section 35 of the Act of 1937*

10. The provisions of section 35 of the Act of 1937 shall have effect in relation to a person who becomes a contributory employee or a person who is deemed to be a contributory employee in circumstances in which these rules apply as if the reference in the said section to regulations made under that Act included a reference to these rules.

Given under the official seal of the Minister of Housing and Local Government this twenty-third day of February, nineteen hundred and sixty-one.

(L.S.)

*Henry Brooke,*  
Minister of Housing and  
Local Government.



## EXPLANATORY NOTE

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

These Rules contain provisions with respect to the superannuation rights of persons who after leaving pensionable employment in local government in England or Wales enter, within the prescribed time limit (generally 12 months), pensionable employment in various public services (other than the teaching service) in the Island of Jersey, or who after leaving pensionable employment in those services enter (within the same time limit) pensionable employment in local government in England or Wales.

Definitions of expressions used in the Rules are contained in Part I. Part II provides for the payment of transfer values by local authorities to the corresponding bodies in Jersey in respect of persons moving from pensionable local government employment in England or Wales to pensionable employment in Jersey and, on any such move taking place, enables the local authority concerned to exercise (with a view to increasing the benefits payable to or in respect of the employee on his retirement or death) certain discretionary powers. Exercise of any such discretionary powers will result in an appropriate adjustment in the transfer value payable by the local authority.

Part III provides for the reckoning of previous service in the case of a person who after leaving pensionable employment in Jersey enters pensionable local government employment in England or Wales. Part III also provides for the continuation in local government employment of payments which were being made with a view to adding to, or enhancing the value of, previous service at the time when the employee concerned left employment in Jersey.

Part IV contains miscellaneous provisions with respect to the return of contributions, the rights of persons who in employment in Jersey were insured persons within the meaning of the Insular Insurance (Jersey) Law, 1950, and the application of section 35 of the Local Government Superannuation Act, 1937 (which provides for decisions on questions and appeals to the Minister).

The Rules extend to changes of employment which have taken place before the date of coming into operation of the Rules, but only where the person concerned became, or, as the case may be, ceased to be employed in Jersey on or after the date his Jersey employment became pensionable. The Rules are given this limited retrospective operation under the express authority of, and subject to the safeguards required by, section 2 (5) of the Superannuation (Miscellaneous Provisions) Act, 1948.